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# The Minnesota State Register

Department of Administration—Print Communications Division

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# State Register

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

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, state and non-state contracts, contract awards, grants, a monthly calendar of cases to be heard by the state supreme court, and announcements.

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

### Printing Schedule and Submission Deadlines

Vol. 17 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
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12	Friday 4 September	Monday 14 September	Monday 21 September
13	Monday 14 September	Monday 21 September	Monday 28 September
14	Monday 21 September	Monday 28 September	Monday 5 October

\*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) 296-0929.

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 \$150.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

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## 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.

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## Minnesota Manufacturer's Directory 1992



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## Proposed Rules

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

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

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

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

## Board of Animal Health

### Proposed Permanent Rules Relating to Disease Control

#### Notice of Intent to Adopt a Rule Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Board of Animal Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, sections 35.03, 35.251 and 35.245.

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 their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the board will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to: William L. Hartmann DVM, MS, Minnesota Board of Animal Health, Room 119, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-4138.

The proposed rule 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 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 Dr. Hartmann.

The board has determined that this rule will have no significant negative impact on small businesses.

If no hearing is required, upon adoption of the final 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 a written request to Dr. Hartmann.

Dated: 31 August 1992

T.J. Hagerty, DVM  
Executive Secretary  
Minnesota Board of Animal Health

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# Proposed Rules

## Rules as Proposed

### IMPORTATION OF CATTLE AND BISON

#### 1700.0100 DEFINITIONS.

Subpart 1. **Scope.** Where used in this rule the following words and terms are defined as follows The definitions in this part apply to this chapter.

[For text of subs 2 to 5, see M.R.]

Subp. 6. **Breeding cattle.** "Breeding cattle" means all cattle except steers, spayed heifers, and heifers of beef breed between the ages of ~~eight~~ six and 18 months imported for feeding purposes, or slaughter cattle as defined in subpart 17.

[For text of subs 7 and 8, see M.R.]

Subp. 8a. **Certificate of veterinary inspection.** "Certificate of veterinary inspection" means a certificate issued by an accredited veterinarian after a physical examination, stating that the cattle described are free from symptoms of contagious, infectious, or communicable disease, and must include a statement of the origin of the cattle and the name and address of the consignee.

[For text of subs 9 to 11, see M.R.]

Subp. 12. [See repealer.]

[For text of subp 13, see M.R.]

Subp. 14. **Official calfhooD vaccinate.** "Official calfhooD vaccinate" means a female bovine animal of a dairy breed vaccinated against brucellosis with an approved Brucella vaccine while from ~~two to six months (60 to 179 days)~~ of age, or a female bovine animal of a beef breed vaccinated against brucellosis with an approved Brucella vaccine while from ~~two~~ four to ten months (60 ~~120~~ 299 days) of age, permanently identified as a vaccinate, and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of bovine brucellosis.

[For text of subp 15, see M.R.]

Subp. 16. **"S" branded S-branded cattle.** "~~S~~ branded S-branded cattle" means cattle that have been identified by branding with a hot iron the letter "S" at least two by two inches on the left jaw or high on the tailhead over the fourth to seventh coccygeal vertebrae.

[For text of subp 17, see M.R.]

#### 1700.0200 CATTLE CONSIGNED TO PUBLIC STOCKYARDS, APPROVED MARKETS, OR SLAUGHTERING ESTABLISHMENTS.

Cattle of any class may be consigned without a ~~health~~ certificate of veterinary inspection or tests to a public stockyard or market approved under parts 1715.0780 to 1715.1250.

Cattle for immediate slaughter only may be consigned without a ~~health~~ certificate of veterinary inspection or tests to slaughtering establishments where the federal government maintains inspection.

#### 1700.0500 SHIPMENTS OF CATTLE NOT NEEDING ~~HEALTH~~ CERTIFICATES OF VETERINARY INSPECTION.

The following shipments of cattle in items A and B do not need ~~health~~ certificates of veterinary inspection:

- A. cattle of any class consigned to the public stockyards or markets approved under parts 1715.0780 to 1715.1250; and
- B. slaughter cattle shipped directly to slaughtering establishments under federal inspection.

#### 1700.0550 CATTLE RETURNED TO MINNESOTA FROM PASTURE.

Cattle not under quarantine owned by Minnesota residents who are not livestock dealers may be returned to the herd of origin from pastures in other states without tests or ~~health~~ certificates of veterinary inspection if a permit is secured from the board prior to movement.

Permits for return from pasture may be issued by the executive secretary or a designee if the pasture is owned, leased, or operated by the Minnesota resident, the pasture is contiguous to Minnesota land owned by the applicant, only the applicant's cattle are in the pasture, and the pasture has been inspected by a representative of the board.

#### 1700.0600 ~~HEALTH~~ CERTIFICATES OF VETERINARY INSPECTION FOR CATTLE.

Cattle of any class consigned to individuals or to state approved markets must be accompanied by a ~~health~~ certificate of veterinary inspection. ~~Health~~ Certificates ~~shall~~ of veterinary inspection must show:

- A. the consignee's name and address;
- B. the status of the herd and area of origin;
- C. all identity numbers of the animals in the shipment where required by ~~these rules~~ parts 1700.0100 to 1700.1500;

- D. the results of all tests required in parts 1700.0700 to ~~1700.0900~~ 1700.1050;
- E. date of vaccination or ear tattoo of official calfhood brucellosis-vaccinated cattle;
- F. age, sex, and breed;
- G. the purpose for which the cattle are to be moved; and
- H. permit number where required.

All ~~health~~ certificates ~~shall~~ of veterinary inspection must be submitted to the animal health office of the state of origin for approval within one week of the issue date.

#### **1700.0700 REQUIREMENT FOR BRUCELLOSIS TEST.**

Official tests for brucellosis in the state of origin ~~shall~~ must be used. All tests ~~shall~~ must be confirmed at a state-federal cooperative laboratory. Cattle may commence movement based on negative tests by authorized persons prior to laboratory confirmation.

With the exception of ~~the following~~ items A to G, all cattle must be negative to brucellosis tests within 30 days prior to movement into Minnesota:

- A. cattle from certified brucellosis-free herds or certified brucellosis-free states not going through cattle concentration points, as defined in part 1705.0060, subpart 2a;
  - B. calves under six months of age;
  - C. cattle shipped directly to the public stockyards or markets approved under parts 1715.0780 to 1715.1250;
  - D. slaughter cattle going directly to a slaughtering establishment under federal inspection;
  - E. official calfhood vaccinated dairy heifers under 20 months of age and official calfhood vaccinated beef heifers under 24 months of age;
  - F. beef-type heifers under 18 months of age for feeding purposes entering a Minnesota feedlot under permit from the board;
- and
- G. steers and spayed heifers.

#### **1700.0800 REQUIREMENT FOR ANAPLASMOSIS TEST.**

With the exception of ~~the following~~ items A to G, all cattle must be tested negative to an official anaplasmosis test at an approved laboratory within 30 days prior to movement:

- A. calves under six months of age;
- B. cattle shipped directly to a public stockyard or markets approved under parts 1715.0780 to 1715.1250;
- C. slaughter cattle going directly to a slaughtering establishment under federal inspection;
- D. beef-type heifers under 18 months of age for feeding purposes entering a Minnesota feedlot under permit from the board;
- E. steers and spayed heifers;
- F. cattle from Canada, states adjacent to Minnesota, and the low incidence states determined by United States Department of Agriculture annual survey; and
- G. cattle that have been sampled for anaplasmosis, the results of which are pending, provided a permit has been secured from the board.

#### **1700.1050 REQUIREMENT FOR TUBERCULOSIS TEST.**

All bison six months of age and over must be negative to a caudal fold tuberculin test within 60 days prior to movement into Minnesota.

#### **1700.1200 CATTLE UNDER QUARANTINE.**

Cattle imported without ~~health~~ a certificate of veterinary inspection except where specifically exempted in ~~this rule~~ parts 1700.0100 to 1700.1500, or imported when not in compliance with ~~this rule~~ parts 1700.0100 to 1700.1500 are under quarantine. ~~Such~~ The cattle ~~shall~~ must be examined and tested to meet the requirements of ~~this rule~~ parts 1700.0100 to 1700.1500 by an accredited veterinarian

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## Proposed Rules

at owner's expense within 72 hours thereafter. Cattle that are not negative to brucellosis or anaplasmosis ~~shall~~ must be sent to slaughter on permit or returned to the herd of origin on a permit from the state of origin. Cattle with other infectious, contagious, or communicable disease ~~shall~~ must be sent to slaughter with permit, returned to the point of origin with permit, or continued in quarantine at the direction of the board.

### 1700.1300 PERMITS.

The following types of cattle in items A to D may be imported with a ~~health~~ health certificate of veterinary inspection for a stated purpose provided a permit is obtained from the board prior to movement:

- A. calves less than two months of age;
- B. cattle from ~~nonbrucellosis free~~ class B and class C states;
- C. female feeding cattle of beef type and breed less than 18 months of age entering for feeding purposes without tests; or
- D. cattle that have been sampled for anaplasmosis, the results of which are pending.

### 1700.1400 CATTLE IMPORTED FROM STATES NOT CERTIFIED BRUCELLOSIS-FREE.

Cattle may be imported from states that are not certified brucellosis-free ~~provided that if the requirements in items A and B are met.~~ Cattle originating in Minnesota that are out of Minnesota for less than 30 days for an exhibition or as embryo donors or recipients are exempt.

A. Cattle from ~~modified certified~~ class A states require a ~~permit,~~ a negative test within 30 days prior to movement, ~~a retest in not less than 45 nor more than 120 days following arrival; and,~~

B. Cattle from ~~noncertified~~ class B or class C states require ~~the cattle originate from a herd tested negative within the previous 12 months a permit,~~ a negative test within 30 days prior to movement, ~~a permit,~~ and a retest in not less than 45 nor more than 120 days following arrival.

### 1700.1500 IMPORTING FEEDING CATTLE.

Feeding cattle may be imported as follows: steers, spayed heifers, and calves under six months of age must be listed on a ~~health~~ health certificate of veterinary inspection but need not be identified or tested; heifers of beef type and breed under 18 months of age must be listed on a ~~health~~ health certificate of veterinary inspection but need not be identified or tested provided a permit is secured from the board. Cattle of this class imported from states classified with "B" or "C" status by Veterinary Services, United States Department of Agriculture, must be branded on the jaw with a hot iron with the letter "F" at least two inches high. The cattle must be segregated from all other cattle except steers, spayed heifers, like quarantined cattle, or cattle purchased in accordance with a feeder affidavit quarantine as provided in parts 1705.0060 to 1705.0540. Segregation ~~shall~~ must consist of a drylot with no pasturing and grazing and double fencing to prevent access to drainage and other cattle. The cattle may be: retained in a feedlot for a period not to exceed 12 months; sold for further feeding under feeder affidavit quarantine as provided in parts 1705.0060 to 1705.0540; sold for slaughter; or moved to another state ~~providing if~~ the movement is in compliance with state and federal regulations.

Upon application by the owner of quarantined cattle that originated in states classified "A" or "Free" by Veterinary Services, United States Department of Agriculture, the board at its discretion may grant permission to the owner to make the necessary tests at the owner's expense to relieve the quarantine. ~~In no case shall~~ The requirements for tests must not be less than the tests required for breeding cattle.

### IMPORTATION OF DOGS AND CATS

### 1700.1600 ~~HEALTH~~ HEALTH CERTIFICATES OF VETERINARY INSPECTION FOR IMPORTATION OF DOGS AND CATS.

All dogs and cats imported into Minnesota ~~shall~~ must be accompanied by a ~~health~~ health certificate of veterinary inspection issued by an accredited veterinarian except:

- A. performing dogs and cats in professional animal acts;
- B. dogs and cats for exhibition which are covered by parts 1715.0010 to 1715.0190;
- C. dogs and cats for research at educational and scientific institutions; and
- D. dogs and cats entering a veterinary facility for treatment, surgery, or diagnostic procedures.

### 1700.1700 CONTENTS OF ~~HEALTH~~ HEALTH CERTIFICATES OF VETERINARY INSPECTION.

~~Health certificates shall~~ A certificate of veterinary inspection must certify that the dog or dogs have cat has been inspected and are is free of visible signs of infectious, contagious, or communicable disease and certify that all dogs if the dog or cat is three months of age and or over have been vaccinated and/or revaccinated against, it has a current rabies vaccination with a USDA United States Department of Agriculture licensed rabies vaccine according to the package insert directions. Manufacturer's name, product The name of the vaccine, vaccine serial number, and date of vaccination or revaccination are to be entered on the health certificate of

veterinary inspection. A copy ~~shall~~ must be forwarded to the Minnesota Board of Animal Health by the approving agency of the state of origin.

#### IMPORTATION OF GOATS

##### 1700.1900 ~~HEALTH~~ HEALTH CERTIFICATE OF VETERINARY INSPECTION FOR GOATS.

All goats imported into Minnesota for purposes other than slaughter ~~shall~~ must be accompanied by a ~~health~~ health certificate of veterinary inspection showing: individual identification by ear tag number, tattoo, or registration number for all goats six months of age and over; ~~results of tests required in part 1700.2000; certified brucellosis-free herd number and date of last herd test, and accredited tuberculosis-free herd number and date of last herd test, if originating from such herds.~~

A copy of the ~~health~~ health certificate of veterinary inspection approved by the animal health official of the state of origin ~~shall~~ must be immediately forwarded to the Board of Animal Health.

#### IMPORTATION OF HORSES, MULES, AND ASSES

##### 1700.2100 DEFINITIONS.

Subpart 1. **Scope.** ~~Where used in these rules the following words and terms shall be defined as follows~~ The definitions in this part apply to parts 1700.2100 to 1700.2550.

[For text of subs 2 to 5, see M.R.]

Subp. 5a. Official test. "Official test" means the Coggins test or other tests approved by the United States Department of Agriculture conducted at a United States Department of Agriculture approved laboratory.

Subp. 6. Reactor. "Reactor" means any horse ~~over nine months of age~~ which discloses a positive reaction to ~~the Coggins~~ an EIA test.

##### 1700.2200 ~~HEALTH~~ HEALTH CERTIFICATES OF VETERINARY INSPECTION FOR HORSES.

All horses imported into ~~the state of~~ Minnesota ~~shall~~ must be accompanied by a ~~health~~ health certificate of veterinary inspection issued by an accredited veterinarian within 30 days prior to date of importation except:

- A. performing horses used by rodeos, circuses, and as animal acts;
- B. horses brought into the state for participation in trail rides, exhibitions, and horse shows where the horses are examined by an official veterinarian;
- C. horses consigned to slaughtering establishments under federal inspection; and
- D. reactors consigned to a federally inspected slaughtering establishment operated under ~~the provisions of~~ the Federal Meat Inspection Act that are officially identified and accompanied by a shipping permit issued at the point of origin by a state or federal veterinarian or an accredited veterinarian.

A test is not required for horses listed as exceptions in this part or suckling foals accompanying a negative dam.

##### 1700.2300 ~~CONTENTS OF HEALTH CERTIFICATE OF VETERINARY INSPECTION.~~ CONTENTS OF HEALTH CERTIFICATE OF VETERINARY INSPECTION.

The ~~health~~ health certificate shall of veterinary inspection must certify that the horses have been examined by an accredited veterinarian within 30 days prior to importation and ~~shall~~ must include an accurate and complete description of each horse in the shipment including age, sex, color, and markings. Registered horses may be identified by registration name and number.

The ~~health~~ health certificate shall of veterinary inspection must certify that all horses in this shipment were negative to ~~a~~ an approved test for EIA conducted at an approved laboratory within 12 months prior to date of importation. The test date and the name of the laboratory ~~shall~~ must be recorded on the ~~health~~ health certificate of veterinary inspection.

A test is not required for horses listed as exceptions in part 1700.2200 or suckling foals accompanying a negative dam.

~~Where a blood sample has been drawn but there is insufficient time to obtain the laboratory results of the Coggins test prior to the importation, a permit for the importation of horses without final laboratory results may be obtained from the board if the veterinarian requesting the permit agrees to submit the laboratory results promptly to the board.~~

A copy of the ~~health~~ health certificate of veterinary inspection approved by the chief livestock regulatory official of the state of origin ~~shall~~ must be mailed to the board.

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## Proposed Rules

### 1700.2310 PERMITS.

If a blood sample has been drawn but there is insufficient time to obtain the laboratory results of the EIA test prior to the importation, a permit for the importation of horses without final laboratory results may be obtained from the board if the veterinarian requesting the permit agrees to submit the laboratory results promptly to the board.

### 1700.2400 SALES.

Horses imported into Minnesota for sale or resale shall must be accompanied by a health certificate of veterinary inspection and shall must be tested and negative for EIA before leaving the sale premises if sold to remain in Minnesota, unless the health certificate of veterinary inspection certifies to a negative test for EIA conducted at an approved laboratory within 12 months prior to the date of sale. Suckling foals accompanying a negative dam are not required to be tested.

Reactors shall be quarantined and shall not be moved intrastate except on a permit issued by the board. Reactors may be moved interstate in accordance with the provisions of Code of Federal Regulations, part 75, revised as of January 1, 1974.

Reactors shall be destroyed, consigned for slaughter to a slaughtering establishment under federal inspection, or returned to the state of origin under a permit issued by the state of origin.

### 1700.2450 REACTORS.

Reactors must be quarantined, destroyed, consigned for slaughter to a slaughtering establishment under federal inspection, or returned to the state of origin under a permit issued by the state of origin. Reactors may not be moved intrastate except on a permit issued by the board. Reactors may only be moved interstate in accordance with Code of Federal Regulations, part 75.

### 1700.2500 HORSES IMPORTED WITHOUT THE REQUIRED TEST FOR EIA.

Horses imported without the required test for EIA shall must be quarantined for an immediate test at the owner's expense. Reactors shall be quarantined and may be moved only in accordance with the provisions of the second and third paragraphs of part 1700.2400. The test must be completed within 30 days of entry into Minnesota.

## IMPORTATION OF POULTRY

### 1700.3110 DEFINITIONS.

Subpart 1. Scope. The definitions in this part apply to parts 1700.3110 to 1700.4500.

Subp. 2. Backyard chickens. "Backyard chickens" means chickens of any breed in a flock that contains less than 1,000 birds.

Subp. 3. Board. "Board" means the Board of Animal Health.

Subp. 4. Control program. "Control program" means one or more of the state or state and federal cooperative programs for the control or eradication of poultry diseases.

Subp. 5. Disease control classification. "Disease control classification" means the negative status of a flock as pertaining to one or more of the control program diseases.

Subp. 6. Other domesticated fowl. "Other domesticated fowl" means fancy, exhibition, and game chickens, waterfowl, and game birds maintained in captivity, excluding pigeons and doves.

Subp. 7. Poultry. "Poultry" means turkeys, chickens, and other domesticated fowl.

### 1700.3400 POULTS, CHICKS, AND HATCHING EGGS.

Turkeys under four months of age, chickens and other domesticated fowl under five months of age, and Hatching eggs produced by turkeys, chickens, and other domesticated fowl and poultry under five months of age may be imported under the following conditions: in items A to C.

A. originate in flocks or are distributed from hatcheries or premises participating in the The importer must have a certificate of veterinary inspection or National Turkey (or Poultry) Improvement Plan or are operating under the disease control agency of the state of origin; and Form VS 9-3.

B. have obtained:

(1) all National Turkey Improvement Plan disease classifications, especially for pullorum-typhoid, salmonella typhimurium, and mycoplasma gallisepticum disease; or

(2) all National Poultry Improvement Plan disease classifications, especially for pullorum-typhoid disease; or

(3) comparable status for the same diseases from the state of origin disease control agency; and The importer must have a permit from the board. Annual permits are available. The application for a permit must be endorsed by the official disease control agency of the state of origin and must indicate the disease control classifications of the flock of origin.

C. obtain a permit from the executive secretary of the Board of Animal Health. Application for such permit shall be made on

a form furnished by the board. This application shall be approved by the official disease control agency of the state of origin and shall indicate the disease control classification or classifications of the flock, hatchery, or other premises from which the birds or hatching eggs originate. The permit shall include the date of expiration. The flocks of origin must have the disease control classifications as follows:

- (1) turkeys, including wild and exhibition turkeys; salmonella pullorum-typhoid, salmonella typhimurium, mycoplasma gallisepticum, mycoplasma synoviae, and sanitation monitored;
- (2) egg-type chickens; salmonella pullorum-typhoid, mycoplasma gallisepticum, mycoplasma synoviae, and sanitation monitored;
- (3) meat-type chickens; salmonella pullorum-typhoid, mycoplasma gallisepticum, and mycoplasma synoviae; and
- (4) backyard chickens, exhibition, game, and waterfowl; salmonella pullorum-typhoid.

#### **1700.3600 SHIPPING CONTAINERS.**

Each container used in which the birds or hatching eggs are shipped shall bear an official label showing the name and address of consignor and consignee, the disease control classification or classifications, and the number of the Minnesota permit. Only new or cleaned and disinfected poultry boxes or containers may be used to ship poultry into Minnesota. The name and address of the consignor and consignee, the breed, the disease control classifications, and the Minnesota permit number must be on the container or on the invoice that accompanies the container.

#### **1700.3700 EXCEPTIONS.**

Waterfowl and waterfowl hatching eggs may be imported without meeting the above requirements unless consigned to a national plan hatchery or a hatchery handling domesticated fowl and hatching eggs other than waterfowl only.

The board may waive the requirement for certain disease classifications for obtaining a poultry importation permit if the classification is no longer available.

Birds imported for immediate slaughter are exempt from parts 1700.3400 and 1700.3800.

#### **1700.3800 ADULT POULTRY.**

Turkeys over four months of age, chickens, waterfowl, and other domesticated fowl Poultry over five months of age may be imported only under the following conditions in items A to C. If apparently healthy, such poultry may be imported for the purpose of immediate slaughter without health certificates or other requirements. For purposes other than immediate slaughter, such poultry must be accompanied by an official health

A. The importer must have an official certificate of veterinary inspection certifying they that the poultry are free from evidence of any infectious, contagious, or communicable disease and have not been exposed thereto to such a disease.

B. The poultry must be tested for or have the following disease control classifications:

- (1) turkeys must have a disease classification for, including wild and exhibition turkeys; salmonella pullorum-typhoid, salmonella typhimurium, mycoplasma gallisepticum, mycoplasma synoviae, and salmonella typhi-murium; sanitation monitored;
- (2) egg-type chickens and other domesticated fowl excepting waterfowl must be classified as U.S.; salmonella pullorum-typhoid clean or of comparable status-, mycoplasma gallisepticum, mycoplasma synoviae, and sanitation monitored;
- (3) meat-type chickens; salmonella pullorum-typhoid, mycoplasma gallisepticum, and mycoplasma synoviae; and
- (4) backyard chickens, exhibition, game, and waterfowl; salmonella pullorum-typhoid.

C. Upon arrival, all such chickens and other domesticated fowl excepting waterfowl shall be quarantined on arrival, separate and apart from all other poultry, until tested for pullorum and typhoid diseases and found negative at least 30 days after importation. If such tests are positive, all birds in the shipment shall be immediately sold for slaughter birds must be kept separate from other poultry for at least 30 days. Retesting for their respective disease control classifications is recommended.

#### **IMPORTATION OF CERVIDAE**

#### **1700.4900 DEFINITIONS.**

Subpart 1. Scope. The definitions in this part apply to parts 1700.4900 to 1700.5300.

Subp. 2. Cervidae. "Cervidae" means all mammals of the family Cervidae, including deer, elk, moose, caribou, and reindeer.

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## Proposed Rules

### 1700.5000 REQUIREMENT FOR IMPORT PERMIT.

A permit must be obtained prior to the importation of any Cervidae.

### 1700.5100 REQUIREMENT FOR CERTIFICATE.

All Cervidae imported into Minnesota must be accompanied by a certificate issued by an accredited veterinarian.

### 1700.5200 REQUIREMENT FOR BRUCELLOSIS TEST.

All Cervidae six months of age and over must be negative to a brucellosis test within 30 days prior to movement into Minnesota.

### 1700.5300 REQUIREMENT FOR TUBERCULOSIS TEST.

All Cervidae six months of age and over must be negative to a test for tuberculosis approved by the board within 90 days prior to movement into Minnesota.

## ERADICATION OF BOVINE AND BISON BRUCELLOSIS

### 1705.0060 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1705.0060 to 1705.0510.

Subp. 1a. Board. "Board" means the Minnesota Board of Animal Health or its authorized agent.

Subp. 2. **Cattle.** "Cattle" means both bovine and bison.

Subp. 2a. Cattle concentration point. "Cattle concentration point" means a facility or location where cattle are assembled for sale or resale for feeding, breeding, or slaughter purposes and where contact may occur between groups of cattle from various sources. Cattle concentration point includes, without limitation, a public stockyard, auction market, state or federal market, consignment sale location, and livestock dealer's yard, truck, and facilities.

Subp. 3. **Exposed cattle.** "Exposed cattle" means those that are part of a brucellosis-infected herd or have been in contact with a brucellosis reactor 24 hours, or less than 24 hours if the reactor has recently aborted, calved, or has a vaginal or uterine discharge. Starting January 1, 1982, the definition of exposed cattle shall be cattle that are part of a known affected herd or have been in contact with brucellosis reactors in marketing channels regardless of the blood test results.

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Market cattle test or MCT.** "Market cattle test" (MCT) or "MCT" means a brucellosis test conducted on marketed cattle.

Subp. 7. **Official brucellosis calthood vaccinate.** "Official brucellosis calthood vaccinate" means female dairy cattle under 20 months of age and female beef cattle under 24 months of age vaccinated against brucellosis by the product and at the age indicated in item A or B:

~~A. Brucella abortus vaccine, strain 19, live culture, standard dose:~~

~~(1) female dairy cattle vaccinated while they are from two through five months of age;~~

~~(2) female beef cattle vaccinated while they are from two through seven months of age.~~

~~B. using Brucella abortus vaccine, strain 19, live culture, reduced dose: female dairy and beef cattle vaccinated while they are from four through ten months (120 to 299 days) of age.~~

Subp. 8. **Owner.** "Owner" means the legal owner, his the owner's agents, and the person in possession of or caring for the cattle referred to.

[For text of subps 9 to 15, see M.R.]

Subp. 16. **Veterinarian.** "Veterinarian" means a veterinarian licensed and accredited in Minnesota or a veterinarian of the United States Department of Agriculture (USDA).

### 1705.0260 OFFICIAL VACCINATION.

Brucella vaccine ~~shall~~ must be licensed by the United States Department of Agriculture. Vaccine ~~shall~~ must be sold to and administered by veterinarians only. Vaccine ~~shall~~ must be administered by the method and dosage described by the manufacturer or the board.

~~Brucella abortus vaccine, strain 19, live culture, standard dose, may be administered to female dairy cattle while they are from two through five months of age and female beef cattle while they are from two through seven months of age. Brucella abortus vaccine, strain 19, live culture, reduced dose, may be administered to female dairy and beef cattle while they are from four through ten months (120 to 299 days) of age.~~

**1705.0310 CATTLE VACCINATED WITH BRUCELLA ABORTUS STRAIN 19 VACCINE.**

Cattle vaccinated with *Brucella abortus* Strain 19 vaccine other than females of authorized ages ~~shall~~ are not be official vaccinates, ~~but shall be quarantined and,~~ when tested, must be diagnosed as unvaccinated cattle.

**1705.0320 AREA PLAN PARTICIPATION.**

The ring test ~~shall~~ must be conducted at least ~~three times per~~ twice a year at approximately equal intervals. Herds with suspicious ring tests ~~are to~~ must be tested ~~investigated~~ within 30 days.

The board may collect blood samples for the brucellosis test from breeding cattle two years of age and over at concentration points, locker plants, and slaughtering establishments. Reactors must be traced to herd of origin and the herd ~~tested~~ investigated within 30 days ~~or quarantined for test within six months.~~

**1705.0430 SALES OF CATTLE AND LEASING OR LOANING CATTLE FOR BREEDING.**

All ~~dairy~~ cattle over six months (209 days) of age ~~and beef cattle eight months (240 days) of age and over~~ passing through a cattle concentration point must be tested negative for brucellosis within 30 days prior to sale or lease or loan except:

- A. cattle sold directly to a slaughtering establishment for immediate slaughter;
- B. cattle consigned to a public stockyards or state and federal approved markets;
- C. steers and spayed heifers;
- D. ~~cattle from a certified brucellosis-free herd;~~
- E. ~~official dairy vaccinates under 20 months of age and beef vaccinates under 24 months of age not parturient or postparturient;~~
- F. ~~E.~~ female feeding cattle under 18 months of age of beef type and breed sold in accordance with *Minnesota Statutes*, section 35.245, subdivision 3, providing:

- (1) the purchaser furnishes the seller and board copies of complete affidavits as furnished by the board;
- (2) the board may inspect the cattle and the premises on which they are maintained at any reasonable time; and

(3) there are facilities to maintain said cattle separate and apart from all other cattle except steers, spayed heifers, or other quarantined feeding cattle. The facilities ~~shall~~ must include double fencing where the cattle are confined in such a manner as to prevent access to other cattle in adjoining yards, pastures, or fields, and such fencing as may be necessary to prevent access of the quarantined cattle to water courses or drainage ditches which flow through or discharge on such other yards, pastures, or fields.

**1705.0460 CERTIFICATES.**

The vendor of all cattle passing through a cattle concentration point and eligible for test sold, leased, or loaned shall provide the purchaser or lessee a certificate with a record of a negative brucellosis test, and, for official vaccinates not eligible for test, a certificate of vaccination or evidence of a legible official vaccination tattoo. Certificates ~~are to~~ must be provided at the time possession of the cattle is transferred.

**1705.0510 TEST ELIGIBLE CATTLE WITHOUT NEGATIVE BRUCELLA TEST.**

Any test eligible cattle, passing through a cattle concentration point, sold, leased, or loaned without a negative brucellosis test within 30 days prior to sale, leasing, or loaning ~~shall~~ must be quarantined to the premises of the person that received the cattle. The quarantine ~~will~~ must be in effect until the cattle are tested for brucellosis at the expense of the vendor. Cattle which do not pass the brucellosis test ~~shall~~ must be shipped for slaughter or returned to the premises of the vendor by permit issued by the board.

**ERADICATION OF BOVINE TUBERCULOSIS IN MINNESOTA****1705.0840 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to parts 1705.0840 to 1705.1085.

Subp. 1a. Board. "Board" means the Minnesota Board of Animal Health or its authorized agent.

Subp. 1b. Cervidae. "Cervidae" means all mammals of the family Cervidae, including deer, elk, moose, caribou, and reindeer.

[For text of subs 2 to 11, see M.R.]

**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

### **1705.1040 ESTABLISHMENT AND MAINTENANCE OF TUBERCULOSIS-FREE ACCREDITED CATTLE HERD.**

An agreement to comply with ~~these rules shall~~ parts 1705.0840 to 1705.1085 must be signed and filed with the board by the owner.

### **1705.1081 ESTABLISHMENT AND MAINTENANCE OF TUBERCULOSIS-FREE ACCREDITED CERVIDAE HERD.**

An agreement to comply with parts 1705.0840 to 1705.1085 must be signed and filed with the board by the owner.

### **1705.1082 ACCREDITATION.**

If all Cervidae over six months of age have been found negative on an initial test for tuberculosis approved by the board and on two retests at intervals of ten to 14 months on all Cervidae over six months of age and all herd additions other than natural additions have been found negative on a test for tuberculosis approved by the board, the herd must be accredited for a period of 24 months (730 days) and a certificate of accreditation must be issued.

### **1705.1083 CANCELLATION OR SUSPENSION OF ACCREDITATION.**

Accreditation must be canceled if additions are made contrary to part 1705.1084 or an isolation of mycobacterium bovis is made. Accreditation must be suspended if an animal in the herd is positive to a test for bovine tuberculosis. This suspension must end if a determination is made that the animal is not infected with bovine tuberculosis.

### **1705.1084 ADDITION TO ACCREDITED HERDS.**

Additions to accredited herds must be from an accredited herd. Individual Cervidae from an untested herd that are to be added to an accredited herd must be negative to a test for tuberculosis approved by the board within 90 days prior to entry and be kept isolated from all Cervidae in the accredited herd until negative to a test for tuberculosis approved by the board conducted at least 90 days after entry. Cervidae added under the immediately preceding category must not receive accredited herd status for sale purposes until they have been members of the herd at least 90 days and included in a herd retest.

### **1705.1085 REACCREDITATION.**

Herds must be reaccruited for 24 months from the anniversary date of the accreditation if all animals over six months of age and all additions other than natural additions have been found negative to a test for tuberculosis approved by the board and all natural additions have been individually identified and recorded on the report of the test as members of the herd at the time of the reaccruited test. The test for reaccruited must be within a period of 22 to 26 months of the anniversary date of the accreditation.

## **PUBLIC EXHIBITION OF LIVESTOCK AND POULTRY IN MINNESOTA**

### **1715.0005 DEFINITIONS.**

Subpart 1. **Scope.** As used in The definitions in this part apply to parts 1715.0005 to 1715.0162, the terms defined in this part have the meanings given.

[For text of subps 2 and 3, see M.R.]

**Subp. 3a. Other domesticated fowl.** "Other domesticated fowl" means fancy, exhibition, and game chickens, waterfowl, and game birds maintained in captivity, excluding pigeons and doves.

**Subp. 3b. Poultry.** "Poultry" means turkey, chickens, and other domesticated fowl.

[For text of subps 4 and 5, see M.R.]

Subp. 6. [See repealer.]

**Subp. 7. Turkeys.** "Turkeys" means domestic, exhibition, and wild turkeys maintained in captivity.

### **1715.0072 EXHIBITION OF CATTLE.**

Cattle must be examined by the official veterinarian on the day they are admitted to the exhibition.

### **1715.0105 SWINE PSEUDORABIES.**

All swine, except swine entered in a slaughter class pursuant to part 1715.0060, must:

A. have had a negative pseudorabies test conducted within 30 days prior to the opening date of the exhibition, a record of which and the result must be entered on a test chart or health certificate of veterinary inspection and presented to the official veterinarian at the time of entry; or

B. originate from a qualified pseudorabies negative herd or a pseudorabies-controlled vaccinated herd pursuant to parts 1705.2480 and 1705.2490, with the qualified herd number or pseudorabies-controlled vaccinated herd number and date of last qualifying test reported to the official veterinarian at the time of entry.

### **1715.0110 EXHIBITION OF SHEEP.**

Sheep ~~shall~~ must be examined by the official veterinarian on the day they are admitted to the exhibition.

**1715.0115 EXHIBITION OF GOATS.**

Goats must be examined by the official veterinarian on the day they are admitted to the exhibition.

**1715.0130 EXHIBITION OF HORSES.**

Horses must be examined by the official veterinarian on the day they are admitted to the exhibition. Trail rides are exempt from the requirements of part 1715.0040, items C and D<sub>2</sub> and this part. Those horse shows which are programmed to be completed within a period of 12 hours and at which horses are not stabled overnight are exempt from the requirements of part 1715.0040, items C and D<sub>2</sub> and this part. The commission veterinarian shall enforce the provisions of this part on horses brought to a racetrack licensed by the Minnesota Racing Commission. If no commission veterinarian has been appointed, the management shall employ an official veterinarian as defined in part 1715.0005, subpart 3.

**1715.0140 EXHIBITION OF POULTRY.**

Poultry, except waterfowl and pigeons, must be individually identified with a leg or wing band and accompanied by a form approved by the board to show compliance with one of the following: negative test for pullorum-typhoid disease conducted within 90 days prior to the opening date of the exhibition; originate directly from parent stock tested and found negative for pullorum-typhoid disease within the last 12 months. In addition, turkeys must be negative for salmonella typhimurium, mycoplasma gallisepticum, and mycoplasma synoviae.

**ENTRANCE REQUIREMENTS FOR LIVESTOCK AND POULTRY ORIGINATING OUTSIDE MINNESOTA****1715.0160 CATTLE, GOATS, SWINE, POULTRY, AND SHEEP.**

All cattle, goats, swine, poultry, and sheep must meet all requirements in parts 1715.0005 to 1715.0162 for livestock and poultry originating in Minnesota and must also meet the board's importation requirements of parts 1700.0100 to 1700.1500, 1700.1800 to 1700.2000, 1700.2600 to ~~1700.3000~~ 1700.3010, 1700.3100 to 1700.3800, 1700.4600, and 1700.4700. Health Certificates of veterinary inspection and required tests, except pseudorabies tests for swine which must be made within 30 days, ~~will~~ must be accepted if issued and conducted within 90 days prior to the opening date of the exhibition.

**APPROVED MARKETS FOR CATTLE****1715.0780 DEFINITIONS.**

Subpart 1. **Scope.** The following words and terms shall be defined as follows where used in these rules definitions in this part apply to parts 1715.0780 to 1715.1180.

[For text of subs 2 to 6, see M.R.]

Subp. 6a. Certificate of veterinary inspection. "Certificate of veterinary inspection" means a certificate issued by a veterinarian, on an official form of the state of origin, certifying that the animals are free from visible signs of contagious, infectious, or communicable disease. Statements with reference to brucellosis status of area of origin and name and address of consignee shall be included. Record of tests or vaccination and individual identification must be recorded when required.

[For text of subp 7, see M.R.]

Subp. 8. [See repealer.]

[For text of subs 9 and 10, see M.R.]

Subp. 11. **Official vaccinate.** "Official vaccinate" ~~shall mean~~ means a female bovine animal of ~~dairy breed~~ vaccinated against brucellosis with an approved Brucella vaccine while from ~~three to six months (90 to 179 days) of age, or a female bovine animal of beef breed vaccinated against brucellosis with an approved Brucella vaccine while from three~~ four to ten months (~~90~~ 120 to 299 days) of age, permanently identified as a vaccinate, and reported at the time of vaccination to the appropriate state or federal agency.

[For text of subp 12, see M.R.]

**1715.0850 ~~HEALTH~~ CERTIFICATES OF VETERINARY INSPECTION.**

The official veterinarian shall examine and accept or refuse ~~health~~ certificates of veterinary inspection of all cattle consigned to the sale, and prohibit the sale of cattle not accompanied by proper ~~health~~ certificates of veterinary inspection until necessary examinations and required tests are completed.

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## Proposed Rules

### 1715.0870 MASTER TEST SHEET AND OTHER MARKET RECORDS.

Cattle moving through the market accompanied by ~~health~~ certificates ~~shall~~ of veterinary inspection must be listed on the master test sheet, and along with data as to the ~~health~~ certificate ~~thereon recorded~~ of veterinary inspection. ~~Health~~ Certificates of veterinary inspection accompanying cattle ~~are to~~ must be maintained with other market records.

### 1715.0960 PAVING WITH IMPERVIOUS MATERIALS.

Sales rings, alleys, testing chutes, and pens used for all livestock, ~~and pens used for swine and sheep shall~~ must be paved with cement or other impervious materials. ~~Annual permits shall not be issued after July 1, 1972 unless all pens, including cattle pens located on the sales premises, are paved with cement or other impervious materials except that sales premises certified in accordance with part 1715.0800, item C prior to July 1, 1972 shall be recertified provided: 20 percent by area of existing unpaved pens have been paved prior to July 1, 1973; 40 percent by area of existing unpaved pens have been paved prior to July 1, 1974; 60 percent by area of existing unpaved pens have been paved prior to July 1, 1975; 80 percent by area of existing unpaved pens have been paved prior to July 1, 1976.~~

~~No sales premises shall be certified after June 30, 1977 unless all pens have been paved.~~

### 1715.1100 CATTLE FROM OTHER STATES.

Cattle originating in other states may be consigned to the market when accompanied by a ~~health~~ certificate of veterinary inspection complying with the Minnesota importation requirements and certifying to origin in a modified certified brucellosis area, or a ~~health~~ certificate of veterinary inspection showing individual identification, certifying to origin in a modified certified brucellosis area, or a declaration signed by the owner showing address of origin, description and number of cattle in shipment, destination, and further stating cattle are not under quarantine because of disease.

### 1715.1130 HEALTH CERTIFICATE OF VETERINARY INSPECTION.

Cattle entering market accompanied by a ~~health~~ certificate of veterinary inspection certifying to origin in a modified certified brucellosis area are subject to tests at the market.

### 1715.1140 CATTLE SOLD WITHOUT FURTHER TESTING.

Cattle entering market accompanied by ~~health~~ certificate of veterinary inspection with necessary tests for brucellosis conducted within 30 days prior to date of importation and recorded thereon, and certifying to origin in modified certified brucellosis area, may be sold without further testing.

### 1715.1180 BRUCELLOSIS TEST EXCEPTIONS.

All dairy cattle over six months of age and all beef cattle eight months of age and over ~~shall~~ must pass a negative test for brucellosis prior to release from the market, except:

- A. steers;
- B. cattle from certified brucellosis-free herds;
- C. cattle accompanied by a record of a brucellosis test signed by a veterinarian showing the cattle have been tested for brucellosis and found negative less than 30 days before the date of sale while owned by the consignor;
- D. official vaccinates of dairy breeds under 20 months of age and beef breeds under 24 months of age;
- E. female cattle of beef type, under 18 months of age sold for feeding and grazing purposes under permit or affidavit and quarantine; and
- F. cattle for immediate slaughter, identified with an official backtag; and
- G. ~~cattle sold to dry feed lot permit holders, provided such cattle are branded at the market with the letter "F" three inches high on the right jaw with a hot iron and provided a health certificate is issued listing the identification numbers.~~

**REPEALER.** Minnesota Rules, parts 1700.0100, subpart 12; 1700.2000; 1700.3100; 1705.0470; 1715.0005, subpart 6; 1715.0070; 1715.0080; 1715.0100; 1715.0120; 1715.0180; 1715.0780, subpart 8; 1720.0820; 1720.0830; 1720.0840; and 1720.0850, are repealed.

## Department of Health

### Proposed Amendments to Proposed Permanent Rules Relating to Home Care Licensure

#### Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be reconvened pursuant to *Minnesota Statutes*.

sections 14.131 to 14.20, in Room 5, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota, on October 21, 1992, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. This public hearing is being held pursuant to the Report of the Administrative Law Judge in the above-captioned matter, dated October 22, 1991, which concluded that modifications to the proposed rules proposed by the Department during the hearing process constituted substantial change under *Minnesota Statutes*, section 14.15, subdivision 3. This hearing will be limited to considering the proposed modifications to the rules originally published with a Notice of Hearing in the *State Register*, June 24, 1992, 15 S.R. 2668. The proposed modifications may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed modifications, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138; telephone (612) 341-7606, or Facsimile (FAX) (612) 349-2665, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings: Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. Any written material or responses submitted must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. The written responses will be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed *Minnesota Rules*, chapter 4668 establish procedural rules and standards for the licensing of all home care providers subject to *Minnesota Statutes*, sections 144A.43 to 144A.49. The proposed *Minnesota Rules*, chapter 4669 establish license fees for home care providers. The proposed modifications to the proposed rules follow this notice.

The agency's authority to adopt the proposed chapter 4668 is contained in *Minnesota Statutes*, sections 144A.45, 144A.46, subdivision 5, 144A.47, and 144A.48, subdivision 4. The authority to adopt the proposed chapter 4669 is contained in *Minnesota Statutes*, sections 144A.46, subdivision 1, clause (c) and 144.122.

Adoption of the rules as a whole will increase aggregate local public body spending by over \$100,000 in each of the first two years following the rule's adoption. If the fiscal note prepared for the August 28-30, 1991 hearing, the Department estimated that the total cost of all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule will be \$310,436 in the first year and \$143,428 in the second year. Adoption of these modifications will alter the effect of the entire proposed rule on local public spending, but will not increase local public spending by \$100,000 or more. As contained in *Minnesota Statutes* 14.11, subdivision 1, it is not necessary to amend to the fiscal note prepared for the August 28-30, 1991 hearing if modifications are less than \$100,000. A copy of the fiscal note is available upon request from:

Elise Paulsen  
Minnesota Department of Health  
Central Medical Building  
393 N. Dunlap St., P.O. Box 64900  
St. Paul, MN 55164-0900

Copies of the proposed modifications to the proposed rules are now available and a free copy may be obtained by writing to Elise Paulsen at the address noted above. Copies of the proposed rules which were prepared for the August 28-30, 1991 hearing are also available.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mary Absolon at the above address, or call (612) 643-2153.

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

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## Proposed Rules

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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 so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

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

Is is the position of the Department that this proposed rule is not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The basis for this position, and the Department's evaluation of the rule under section 14.115, should it be determined that the proposed rule is governed by section 14.115, are addressed in the original Statement of Need and Reasonableness.

The proposed rule will have an impact on those small businesses, as defined in *Minnesota Statutes*, section 14.115, that provide home care services. Small businesses are encouraged to comment and participate in the hearing, if necessary.

*Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor Centennial Office Building, 658 Cedar St., St. Paul, Minnesota 55155, telephone (612) 296-5148.

As required by *Minnesota Statutes*, section 16A.128, subdivision 2a, a copy of this Notice and the proposed rules have been submitted to the Chairs of the House Appropriations Committee and Senate Finance Committee prior to publication of this Notice.

Marlene E. Marschall  
Commissioner of Health

### Rules as Amended

**4668.0002** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0003 DEFINITIONS.**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Ambulatory.** "Ambulatory" means the ability to move about and transfer between locations without the assistance of another person, either with or without the assistance of a walking device or wheel chair.

Subp. 3. to 11. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 12. **Home health aide tasks.** "Home health aide tasks" means those tasks ~~specified~~ allowed in part 4668.0100, subpart 1.

Subp. 13. to 45. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0005** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0008 SERVICES INCLUDED IN AND EXCLUDED FROM LICENSURE.**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Determination of direct services.** As defined in *Minnesota Statutes*, section 144A.43, subdivision 4, a home care provider is a business that provides at least one home care service directly. A service that is provided directly means a service provided to a client by the provider or employees of the provider, and not by contract with an independent contractor. The administration of a contract for home care services is not in itself a direct service. Factors that shall be considered in determining whether a business ~~that contracts for providers of home care services also~~ provides home care services directly include whether the business:

- A. has the right to control and does control the types of services provided ~~by the contractors;~~
- B. has the right to control and does control when and how the services are provided ~~by the contractors;~~
- C. establishes the charges;
- D. collects fees from the clients or receives payment from third party payers on the clients' behalf;
- E. pays compensation ~~to the contractors~~ on an hourly, weekly, or similar time basis;
- F. treats the ~~contractors~~ individuals as employees for purposes of payroll taxes and workers' compensation insurance; and
- G. holds itself out as a provider of services or acts in a manner that leads clients or potential clients reasonably to believe that it is a provider of services.

None of the factors listed in items A to G is solely determinative ~~and the factors are not exclusive of others.~~

Subp. 3. **Contract services.** If a licensee contracts for a home care service with a business that is not subject to licensure under this chapter, it must require, in the contract, that the business comply with this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.49.

Subp. 4. **Coordination of providers of home care services.** The coordination of home care services is not itself a home care service. Coordination of home care services means one or more of the following:

- A. Determination whether a client needs home care services, what services are needed, and whether existing services need to continue or be modified.
- B. Referral of clients to home care providers.
- C. Administration of payments for home care services.

Subp. 4- ~~5~~. **Determination of regularly engaged.** As used in *Minnesota Statutes*, section 144A.43, subdivision 4, "regularly engaged" means providing, or offering to provide, home care services as a regular part of a provider's business. The following factors shall be considered by the commissioner in determining whether a person is regularly engaged in providing home care services:

- A. whether the person markets services specifically to individuals whose illnesses, disabilities, or physical conditions create needs for the services;
- B. whether the services are designed and intended specifically to assist the individuals;
- C. whether the individuals constitute a substantial part of the person's clientele; and
- D. whether the home care services are other than occasional or incidental to the provision of services that are not home care services.

None of the factors listed in items A to D is solely determinative ~~and the factors are not exclusive of others.~~

Subp. ~~5~~- ~~6~~. **Exclusion for a paraprofessional not regularly engaged in delivering home care services.** For purposes of subpart 4 ~~5~~, an individual who performs home care aide tasks or home management tasks for no more than 14 hours each calendar week to no more than one client, is not regularly engaged in the delivery of home care services, and is not subject to licensure under this chapter.

Subp. ~~6~~- ~~7~~. **Exclusion of individual contractors.** An individual who is not an employee of a licensed provider need not be licensed under this chapter, if the person:

- A. only provides services as an independent contractor with one or more licensed providers;
- B. provides no services under direct agreements with clients; and
- C. is contractually bound to perform services in compliance with the contracting providers' policies and service agreements.

Individuals excluded from licensure under this subpart must comply with the same requirements of this chapter as employees of the contracting licensee.

Subp. ~~7~~- ~~8~~. **Governmental providers.** Except as otherwise provided in this chapter or in law, home care services that are provided by the state, counties, or other units of government must be licensed under this chapter.

Subp. ~~8~~- ~~9~~. **Exclusion of certain instructional and incidental services.** A business is not subject to *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49, and is not required to be licensed under this chapter if the business only provides services that are primarily instructional and not medical services or health-related support services.

~~Subp. 9. **Home management services.** For purposes of *Minnesota Statutes*, section 144A.43, subdivision 3, clause (8), a provider must be licensed under this chapter if the provider offers to provide or makes available at least two home management services, but does not necessarily provide more than one service to each client.~~

Subp. 10. to 12. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0009 EXEMPTIONS FOR REGULATED PROGRAMS:**

Subpart ~~1~~. **Purpose.** This part implements *Minnesota Statutes*, section ~~144A.46~~, subdivision 4.

Subp. ~~2~~. **Criteria for exemptions.** A provider that is regulated by a state regulatory program other than that administered under this chapter, is exempt from licensure under this chapter if the commissioner determines that the other program's regulatory standards

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and enforcement mechanisms are substantially the same as or exceed the requirements of this chapter. The commissioner may exempt from licensure a class of services that are substantially alike and are all regulated under the same state program.

Subp. 3. **Procedures.** To be exempted under this part, a provider shall request that the commissioner review the standards under which the provider is regulated. The commissioner may require the provider to provide whatever information is necessary to determine the comparability of the regulations.

Subp. 4. **Compliance with bill of rights.** Providers exempt from licensure under this part must comply with the home care bill of rights as implemented by part 4668.0030, and remain subject to the jurisdiction and authority of the Office of Health Facility Complaints.

Subp. 5. **Changes in regulation.** A provider exempt from licensure under this part shall notify the commissioner within 30 days after any changes in the rules or enforcement process under which the provider is regulated.

Subp. 6. **Review of exemption.** After receiving the notice required by subpart 5, or at any time that the commissioner learns of a change in rules or regulatory process, the commissioner shall review the changes and determine whether the provider shall continue to be exempt under this part. If the provider fails to timely notify the commissioner of changes, the exemption may be revoked, effective upon the commissioner notifying the provider of the revocation.

### 4668.0012 LICENSURE.

Subpart 1. and 2. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 3. **Classes of licenses.** In issuing a license under this part, the commissioner shall assign a license classification according to items A and B. A provider performing only home management tasks shall be registered pursuant to *Minnesota Statutes*, section 144A.461, and need not obtain a home care license.

A. A provider shall apply for one of the classes of the home care license listed in subitems (1) to (5).

(1) Class A, or professional home care agency license. Under this license, a provider may provide all home care services, at least one of which is nursing, physical therapy, speech therapy, respiratory therapy, occupational therapy, nutritional services, medical social services, home health aide services tasks, or the provision of medical supplies and equipment when accompanied by the provision of a home care service.

(2) Class B, or paraprofessional agency license. Under this license, a provider may perform home care aide tasks and home management tasks, as provided by parts 4668.0110 and 4668.0120.

(3) Class C, or individual paraprofessional license. Under this license, a provider may perform home health aide, home care aide, and home management tasks.

(4) Class D, or hospice program license. Under this license, a provider may provide hospice services, as provided by *Minnesota Statutes*, section 144A.48.

(5) Class E, or assisted living programs license. Under this license, a provider may provide assisted living services to residents of a residential center.

B. If a provider meets the requirements of both a class A and class D license, the commissioner shall issue to the provider both a class A license and a class D license.

Subp. 4. **Applicability of rules to classes.** A licensee shall comply with all requirements of this chapter, except for those parts that apply only to classes for which the licensee is not licensed. The following parts apply only to the class of license listed in items A to E.

A. A class A licensee must comply with part 4668.0180, except that one certified for Medicare as a home health agency under *Code of Federal Regulations*, title 42, part 484, need not comply with the requirements listed in part 4668.0180, subpart 10.

B. A class B licensee must comply with part 4668.0190.

C. A class C licensee must comply with part 4668.0200.

D. A class D licensee must comply with part 4668.0210, except that one certified for Medicare as a hospice program under *Code of Federal Regulations*, title 42, part 418, need not comply with the requirements listed in part 4668.0210, subpart ~~23~~ 22.

E. A class E licensee must comply with part 4668.0215.

Subp. 5. **New license.** A license shall be issued to an applicant that is not currently licensed if the applicant completes the application, pays the fee in full, and complies with the requirements of *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49, and this chapter. ~~Except as provided in subpart 6,~~ A license is effective for one year after the date the license is issued.

Subp. 6. **Licenses for social services agencies.** ~~A county may apply for a single license for all its home care services or may apply for two or more licenses for separate county agencies that each provide home care services. If a county chooses to apply for a separate~~

license for its social service agency, the county may submit a completed application together with its proposed biennial community social service plan to the Department of Human Services, as required by *Minnesota Statutes*, section 256E.09, pay the license fee in full, and comply with the requirements of this chapter. A license issued to a county social service agency is effective for two years after the date the license is issued. The commissioner may issue to each county social service agency a provisional license that is effective until a regular license is issued under this subpart.

Subp. ~~7.~~ 6. **License application.** To apply for a license under this chapter, an applicant must follow the procedures in items A and B.

A. An applicant for a license under this chapter must provide the following information on forms provided by the commissioner:

- (1) the applicant's name and address, including the name of the county in which the applicant resides or has its principal place of business;
- (2) address and telephone number of the principal administrative office;
- (3) address and telephone number of each branch office, if any;
- (4) names and addresses of all owners and managerial officials;
- (5) a list of all owners and managerial officials who statement that persons involved in the management, operation, or control of a provider have not been convicted of crimes and the crimes of which they have been convicted a crime listed in part 4668.0020, subpart 14, or meet requirements for rehabilitation in part 4668.0020, subpart 15;
- (6) release statements, if required by part 4668.0020, subpart 5 4;
- (7) evidence of workers' compensation coverage, as required by *Minnesota Statutes*, sections 176.181 and 176.182;
- (8) in the case of class C applicants, proof that the applicant is not contagious with tuberculosis, as required by part 4668.0065, subparts 1 and 2;
- (9) in the case of class C applicants, proof that the applicant has met any applicable training and supervision requirements for paraprofessionals, as provided by parts 4668.0100 and 4668.0110; and
- (10) a list of those home care services listed in *Minnesota Statutes*, section 144A.43, subdivision 3, that will be made available to clients.

B. An application on behalf of a corporation, association, or unit of government must be signed by an officer or managing agent.

Subp. ~~8.~~ 7. **Agent.** Each application for a home care provider license or for renewal of a home care provider license shall designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner of health on all matters provided for in *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter; and

B. upon whom all notices and orders shall be served, and who is authorized to accept service of notices and orders on behalf of the licensee, in proceedings under *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter.

The designation of one or more persons under this subpart shall not affect the legal responsibility of any other owner or managerial official under *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter.

Subp. ~~9.~~ 8. **Notification of changes in information.** The licensee shall notify the commissioner in writing within ten working days after any change in the information required to be provided by subparts ~~7 6~~ and ~~8 7~~, except for the information required by subpart 6, item A, subitem (4), which will be required at the time of license renewal, and except for services reported under subpart 7 6, item A, subitem (10), that are discontinued for less than 90 days.

Subp. ~~10.~~ 9. **Application processing.** The commissioner shall process an application in the manner provided by *Minnesota Statutes*, section 144A.46, subdivision 1, paragraph (b). No application shall be processed without payment of the license fee in full, in the amount provided by subpart ~~19~~ 18.

Subp. ~~11.~~ 10. **Prelicensing survey.** Before granting a license, other than a provisional license under *Minnesota Statutes*, section 144A.49, the commissioner may investigate the applicant for compliance with *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49, and this chapter.

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Subp. ~~42-~~ 11. Denial of license. A license shall be denied if:

- A. the applicant; an owner of the applicant, individually or as an owner of another home care provider; or another home care provider of which an owner of the applicant also was or is an owner; has ever been issued a correction order for failing to assist its clients, in violation of part 4668.0050, subpart 2, upon the licensee's decision to cease doing business as a home care provider;
- B. the applicant is not in compliance with *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49, and this chapter;
- C. the applicant is disqualified under part 4668.0020, subpart 2;
- D. the applicant or an owner or managerial official has refused to provide a release for access to criminal information, if required by part 4668.0020, subpart ~~5 4~~; or
- E. the commissioner determines that an owner or managerial official, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter.

Subp. ~~43-~~ 12. Change of classification. A licensee may change to a different class of license under subpart 3, by submitting a new application under subpart ~~7 6~~ and meeting all applicable requirements of this chapter. An application under this subpart shall be accompanied by the fee provided by subpart ~~49 18~~.

Subp. ~~44-~~ 13. License renewals. Except as provided in subpart ~~45 14~~ or ~~46 15~~, a license will be renewed for a period of one year if the licensee satisfies items A to C. ~~A license issued to a county social service agency under subpart 6 will be renewed for two years if the licensee satisfies items A to C.~~ The licensee must:

- A. submit an application for renewal on forms provided by the commissioner at least 30 days before expiration of the license, ~~or, in the case of a county social service agency, submit an application for renewal to the Department of Human Services as part of its community social service plan, as required by Minnesota Statutes, section 256E.09;~~ and
- B. submit the renewal fee, in the amount provided by subpart ~~49 18~~; and
- C. comply with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49.

Subp. ~~45-~~ 14. Conditional license. If a licensee is not in full compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49, at the time of expiration of its license, and the violations do not warrant denial of renewal of the license, the commissioner ~~may~~ shall issue a license for a limited period conditioned on the licensee achieving full compliance within the term of the license or the term of any correction orders.

Subp. ~~46-~~ 15. Suspension, revocation, or denial of renewal of license. The commissioner may deny renewal of a license, or may suspend, revoke, or make conditional a license, if the licensee, or an owner or managerial official of the licensee:

- A. is in violation, or during the term of the license has violated, any of the requirements of this chapter or *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.49;
- B. permits, aids, or abets the commission of any illegal act in the provision of home care;
- C. performs any act detrimental to the welfare of a client;
- D. obtained the license by fraud or misrepresentation;
- E. knowingly made or makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter;
- F. denies representatives of the commissioner access to any part of the provider, its books, records, or files, or employees;
- G. interferes with or impedes a representative of the commissioner in contacting the provider's clients;
- H. interferes with or impedes a representative of the commissioner in the enforcement of *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter;
- I. destroys or makes unavailable any records or other evidence relating to the licensee's compliance with *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter;
- J. refuses to provide a criminal record release, if required by part 4668.0020, subpart ~~5 4~~; or
- K. has failed to timely pay any fines assessed under part 4668.0230.

Subp. ~~47-~~ 16. Transfers prohibited; changes in ownership. A license issued under this part may not be transferred to another party. Before changing ownership, a prospective provider must apply for a new license under this part. A change of ownership means a transfer of operational control to a different business entity, and includes:

- A. transfer of the business to a different or new corporation;

B. in the case of a partnership, the dissolution or termination of the partnership under *Minnesota Statutes*, chapter 323, with the business continuing by a successor partnership or other entity;

C. relinquishment of control of the provider by the licensee to another party, including to a contract management firm that is not under the control of the owner of the business' assets; ~~or~~

D. transfer of the business by a sole proprietor to another party or entity; or

E. in the case of a privately held corporation, the change in ownership or control of 50 percent or more of the outstanding voting stock.

Subp. ~~48-~~ 17. **Display of license.** The original license must be displayed in the provider's principal business office and copies must be displayed in all other offices. The licensee must provide a copy of the license to any person who requests it.

Subp. ~~49-~~ 18. **Fees.** Each application for a license must include payment in full of the fee according to the schedule in chapter 4669.

#### **4668.0016 WAIVERS AND VARIANCES**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Criteria for waiver or variance.** Upon application of a licensee, the commissioner ~~may~~ shall waive or vary any provision of this chapter, except for those provisions relating to criminal disqualification, part 4668.0020, and to the home care bill of rights, part 4668.0030, if the commissioner finds that:

A. the waiver or variance is necessary because of the unavailability of services or resources in the provider's geographic area; or

B. enforcement of a requirement would result in unreasonable hardship on the licensee; and

C. the waiver or variance will not adversely affect the health, safety, or welfare of any client.

Subp. 3. to 8. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 9. **Revocation or denial of renewal.** The commissioner ~~may~~ shall revoke or deny renewal of a waiver or variance if:

A. it is determined that the waiver or variance is adversely affecting the health, safety, or welfare of the licensee's clients;

B. the licensee has failed to comply with the terms of the variance;

C. the licensee notifies the commissioner in writing that it wishes to relinquish the waiver or variance and be subject to the rule previously waived or varied; or

D. the revocation or denial is required by a change in law.

Subp. 10. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0017** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0019** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0020 CRIMINAL DISQUALIFICATIONS OF APPLICANTS, LICENSEES AND STAFF.**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Criminal disqualification of licensees.** Except as provided by subpart ~~46~~ 15, no license will be issued to an applicant for a license if the applicant or an owner or managerial official of the applicant has ever been convicted of a crime listed in subpart ~~45~~ 14, or a comparable crime in another jurisdiction.

Subp. 3. **Criminal disqualification of prospective and existing employees.** Except as provided by subpart ~~46~~ 15, no licensee may employ in a position that requires direct contact with clients in their homes or in the community, ~~or that requires the supervision of direct care workers~~; any person who the licensee knows has ever been convicted of a crime listed in subpart ~~45~~ 14, or a comparable crime in another jurisdiction.

Subp. 4. ~~**Disclosure of criminal conviction information by owners and managerial officials.** Each applicant and individual owner and managerial official required to be named by part 4668.0012, subpart 7, shall fully disclose all crimes of which the person has been convicted in any jurisdiction, or state that the person has never been convicted of a crime.~~

Subp. ~~5-~~ 4. **Criminal investigation of applicants for licensure.** If the commissioner has reasonable cause to believe that the

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(1) The person has not been convicted of a crime listed in subpart ~~15~~ 14, or a comparable crime in another jurisdiction, for the two years before the date of application for the license or for employment.

(2) If on probation, parole, or other conditional release, the person submits a report from the person's probation or parole agent that is satisfactory to the commissioner.

(3) The person has not been incarcerated in jail or prison for the two years before the date of application for the license or for employment.

(4) If, as a condition of the person's probation, conditional release, or sentence, the person had been ordered by a court to participate in a program for the treatment of chemical dependency, psychological disorders, or other behavioral problems, the person completed the program in compliance with the condition.

Subp. ~~17~~ 16. **Exceptions to rehabilitation.** Subpart ~~16~~ 15 does not apply in the case of a crime of homicide or aiding suicide under *Minnesota Statutes*, sections 609.185 to 609.215, committed in connection with the provision of health care or home care services.

Subp. ~~18~~ 17. **Reporting new criminal information.** If a licensee learns of any criminal conviction of an employee that was not revealed to the licensee as required by subpart ~~9~~ 8, and was not discovered by the criminal history search required by subpart ~~11~~ 10, and is verified by a law enforcement agency, the licensee shall:

A. remove the employee from work involving direct client service ~~or supervision of direct client service~~, unless the failure to reveal the conviction was unintentional and is excusable; and

B. report the information about the conviction to the commissioner.

### 4668.0030 HOME CARE BILL OF RIGHTS.

Subpart 1. to 6. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. ~~7~~. **Abuse reporting.** ~~The licensee and all employees of the licensee shall report the maltreatment of vulnerable minors or adults in compliance with *Minnesota Statutes*, sections 626.556 and 626.557, respectively.~~

Subp. ~~8~~ 7. **Prohibition against waivers.** The licensee may not request nor obtain from clients any waiver of any of the rights enumerated in *Minnesota Statutes*, section 144A.44, subdivision 1. Any waiver obtained in violation of this subpart is void.

### 4668.0035 HANDLING OF CLIENTS' FINANCES AND PROPERTY.

Subpart 1. **Powers-of-attorney.** A licensee may not accept powers-of-attorney from clients for any purpose, and may not accept appointments as guardians or conservators of clients, unless the licensee maintains a clear organizational separation between the home care service and the program that accepts guardianship or conservatorship appointments. This subpart does not apply to licensees that are Minnesota counties or other units of government.

Subp. 2. **Handling clients' finances.** A licensee may assist clients with household budgeting, including paying bills and purchasing household goods, but may not otherwise manage a client's property. A licensee must provide ~~clients~~ a client with receipts for all transactions and purchases paid with the clients' funds; and, when receipts are not available, the transaction or purchase must be documented. A licensee must maintain records of all such transactions.

Subp. 3. and 4. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

### 4668.0040 COMPLAINT PROCEDURE.

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Informing clients.** The system required by subpart 1 must provide written notice to each client that includes:

- A. the client's right to complain to the licensee about the services received;
- B. the name or title of the person or persons to contact with complaints;
- C. the method of submitting a complaint to the licensee;
- D. the right to complain to the Minnesota Department of Health, Office of Health Facility Complaints; and
- E. a statement that the provider will in no way retaliate because of a complaint.

Subp. 3. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

### 4668.0050 [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

### 4668.0060 ADMINISTRATION.

Subpart 1. **Referrals.** The licensee shall notify another home care provider, inpatient facility, or other health care practitioner or provider to whom the licensee ~~refers~~ transfers a client, of any contagious disease to which the client is known to have been exposed or which the client is known to have contracted.

Subp. 2. to 4. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 5. **Scheduled appointments for nonessential services.** If a licensee, contractor, or employee of a licensee is unable, for any reason, to keep a scheduled appointment for a service that is not essential for medical or safety reasons, the licensee shall:

- A. follow the procedure, if any, established in the service agreement;
- B. provide a replacement person; or

C. notify the client that the appointment will not be kept, and schedule a new appointment or arrange for some other reasonable alternative ~~acceptable to the client~~.

Subp. 6. **Scheduled appointments for essential services.** If, for medical or safety reasons, a service to be provided must be completed at the scheduled time, and the licensee, contractor, or employee of a licensee is unable, for any reason, to keep the scheduled appointment, the licensee shall make arrangements to complete the service through a contract with another provider or through other reasonable means ~~reasonably acceptable to the client~~.

Subp. 7. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0065 INFECTION CONTROL.**

Subpart 1. **Tuberculosis screening.** No person who is contagious with tuberculosis may provide services that require direct contact with clients. All individual licensees and employees and contractors of licensees must document the following before providing services that require direct contact with clients:

A. the person must provide documentation of having received a negative reaction to a Mantoux test administered within the 12 months before working in a position involving direct client contact, and no later than every 24 months after the first Mantoux test; or

B. if the person has had a positive reaction to a Mantoux test upon employment or within the two years before working in a position involving direct client contact, the person must provide:

(1) documentation of a negative chest x-ray administered within the three months before working in a position involving direct client contact; and

(2) documentation of a negative chest x-ray administered each 12 months, for two years after the positive reaction to a Mantoux test or documentation of completing or currently taking a course of tuberculosis preventative therapy; or

C. if the person has had a positive reaction to a Mantoux test more than two years before working in a position involving direct client contact, the person must provide documentation of a negative chest x-ray taken within the previous 12 months or documentation of completing or currently taking a course of tuberculosis preventative therapy.

In this subpart, "Mantoux test" means a Mantoux tuberculin skin test.

Subp. 2. and 3. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0070 PERSONNEL RECORDS.**

Subpart 1. **Scope.** This part applies to all licensees except class C licensees.

Subp. 2. Personnel records. ~~Except for class C licensees,~~ The licensee must maintain a record of each employee, of each individual contractor excluded under part 4668.0008, subpart 6 7, and of other individual contractors. The record must include the following information:

A. evidence of current professional licensure, registration, or certification, if licensure, registration, or certification is required by this chapter, statute, or other rules;

B. records of training required by this chapter; and

C. evidence of licensure under this chapter, if required.

Subp. ~~2~~ 3. **Job descriptions.** The licensee shall maintain current job descriptions, including qualifications, responsibilities, and identification of supervisors, if any, for each job classification.

Subp. ~~3~~ 4. **Retention of personnel records.** Each personnel record must be retained for at least three years after an employee or contractor ceases to be employed by the licensee.

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### 4668.0075 ORIENTATION TO HOME CARE REQUIREMENTS.

Subpart 1. **Orientation.** Every individual applicant for a license, and every person who provides direct care, supervision of direct care, or management of services for a licensee, shall complete an orientation to home care requirements before providing home care services to clients. This orientation may be incorporated into the training required of paraprofessionals under part 4668.0130, or of persons providing volunteer services to a hospice under part 4668.0210, subpart 46 15. This orientation need only be completed once.

Subp. 2. **Content.** The orientation required by subpart 1 must contain the following topics:

- A. an overview of the home care statute, *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter;
- B. handling of emergencies and use of emergency services;
- C. reporting the maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557.
- D. home care bill of rights;
- E. handling of clients' complaints and reporting of complaints to the Office of Health Facility Complaints; and
- F. services of the ombudsman for older Minnesotans; and

~~G. resources in the community to which clients may be referred, including medical and dental practitioners, health and social service providers, and other related service providers, and procedures for making referrals.~~

Subp. 3. to 5. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

### 4668.0080 QUALIFICATIONS OF PROFESSIONAL PERSONNEL.

Subpart 1. **Occupational therapy.** A person who provides occupational therapy as a licensee or as an employee or contractor of a licensee must:

A. have earned a baccalaureate degree from an occupational therapy program accredited jointly by the ~~Council on Medical Education~~ Committee on Allied Health Education and Accreditation of the American Medical Association and the American Occupational Therapy ~~Certification Board~~ Association;

B. be registered as an occupational therapist by the American Occupational Therapy Certification Board; or

C. meet the standards established for registration by the American Occupational Therapy Certification Board, in effect on June 1, 1990.

Subp. 2. to 4. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 5. **Physical therapy.** A person who provides physical therapy as an employee or contractor of a licensee must be registered as a physical therapist with the Board of Medical Practice under *Minnesota Statutes*, sections 148.65 to 148.78.

### 4668.0100 HOME HEALTH AIDE TASKS.

Subpart 1. **Home health aide tasks.** For a class A, C, or D licensee, a registered nurse may delegate medical or nursing services as tasks or a therapist may assign therapy services as tasks only to a person who satisfies the requirements of subpart 5 may perform medical, nursing, or therapy services that, by law, must be delegated by registered nurses or therapists, including: These delegated or assigned tasks, as set forth in this part, include home care aide tasks as set forth in part 4668.0110. Class A or D licensees providing home care aide tasks must satisfy the training and supervision requirements of this part, and not part 4668.0110. These tasks include:

- A. ~~assistance with the~~ administration of medications, as provided by subpart 2;
- B. performing routine delegated medical or nursing or ~~delegated assigned~~ therapy procedures, as provided by subpart 4;
- C. assisting with body positioning or transfers of clients who are not ambulatory;
- D. feeding of clients who, because of their condition, are at risk of choking;
- E. assistance with bowel and bladder control, devices, and training programs;
- F. assistance with therapeutic or passive range of motion exercises;
- G. providing skin care, including full or partial bathing and foot soaks; and

H. during episodes of serious disease or acute illness, providing services performed for a client or to assist a client to maintain the hygiene of the client's body and immediate environment, to satisfy nutritional needs, and to assist with the client's mobility, including movement, change of location, and positioning, and bathing, oral hygiene, dressing, hair care, toileting, bedding changes, basic housekeeping, and meal preparation. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

Subp. 2. ~~Assistance with Administration of medications.~~ A person who satisfies the requirements of subpart 5 may ~~assist with the administration of~~ administer medications, whether oral, suppository, eye drops, ear drops, inhalant, topical, or administered through a gastrostomy tube, if:

A. the medications are regularly scheduled;

B. in the case of pro re nata medications, ~~each dosage is individually authorized by the administration of the medication is reported to~~ a registered nurse either:

(1) ~~within the 24 hours before the~~ after its administration; or

(2) within a time period that is specified by a registered nurse prior to the administration;

C. prior to the administration, the person is instructed by a registered nurse in the procedures to ~~assist with the administration of administer the~~ medications to each client;

D. a registered nurse specifies, in writing, and ~~documented documents~~ documents in the clients' records, the procedures ~~for assisting with the administration of to administer the~~ medications; and

E. prior to the administration, the person demonstrates to a registered nurse the person's ability to competently follow the procedure.

For purposes of this subpart, "pro re nata medication," commonly called p.r.n. medication, means a medication that is ordered to be administered to or taken by a client as necessary.

Subp. 3. **Limitations on assistance with administering medications.** A person who ~~assists with the administration of~~ administers medications under subpart 2 may not inject medications into veins, muscle, or skin.

Subp. 4. **Performance of routine procedures.** A person who satisfies the requirements of subpart 5 may perform delegated medical or nursing and assigned therapy procedures, if:

A. prior to performing the procedures, the person is instructed by a registered nurse or therapist, respectively, in the proper methods to perform the procedures with respect to each client;

B. a registered nurse or therapist, respectively, specifies, in writing, specific instructions for performing the procedures for each client;

C. prior to performing the procedures, the person demonstrates to a registered nurse or therapist, respectively, the person's ability to competently follow the procedures; and

D. the procedures for each client are documented in the clients' records.

Subp. 5. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 6. **In-service training and demonstration of competence.** For each person who performs home health aide tasks, the licensee must comply with items A to C.

A. For each 12 months of employment, each person who performs home health aide tasks shall:

(1) ~~complete at least eight hours of in-service training in topics relevant to the provision of home care services, including that required by part 4668.0065, subpart 3; and~~

(2) ~~demonstrate to a registered nurse or therapist, as appropriate, the person's competence in at least two skills, obtained from the licensee or another source.~~

B. Licensees shall retain documentation of satisfying this part and shall provide documentation to persons who have completed the in-service training.

C. ~~Licensees may satisfy the in-service training requirements of this subpart by verifying that persons who perform home health aide tasks have completed some or all of the required in-service training while employed by another licensee or while licensed as a class C provider under part 4668.0200~~ If a person has not performed home health aide tasks for a continuous period of 24 consecutive months, the person must demonstrate to a registered nurse competence in the skills listed in part 4668.0130, subpart 3, item A, subitem (1).

Subp. 7. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 8. **Initiation of home health aide tasks.** ~~When~~ Prior to the initiation of home health aide tasks ~~are initiated,~~ a registered nurse or therapist shall orient ~~the first each~~ person who is to perform home health aide tasks to ~~the each~~ client at ~~the client's residence,~~ and to the tasks to be performed. ~~Additional persons assigned to serve that client after the initial visit may be oriented in a manner other than at the client's residence.~~

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Subp. 9. **Periodic supervision of home health aide tasks.** After the orientation required by subpart 8, a therapist or a registered nurse shall supervise, or a licensed practical nurse, under the direction of a registered nurse, shall monitor persons who perform home health aide tasks at the client's residence to verify that the work is being performed adequately, to identify problems, and to assess the appropriateness of the care to the client's needs. This supervision or monitoring must be provided no less often than the following schedule:

A. ~~within two weeks after the orientation visit~~ 14 days after initiation of home health aide tasks; and

B. ~~monthly thereafter every 14 days thereafter, or more frequently if indicated by a clinical assessment, for home health aide tasks described in subparts 2 to 4;~~ or

C. every 60 days thereafter, or more frequently if indicated by a clinical assessment, for all home health aide tasks other than those described in subparts 2 to 4.

If monitored by a licensed practical nurse, ~~a person the client~~ must be supervised at the residence by a registered nurse at least every ~~six months other visit~~, and the licensed practical nurse must be under the ~~supervision~~ direction of a registered nurse, according to *Minnesota Statutes*, sections 148.171 to 148.285.

### 4668.0110 HOME CARE AIDE TASKS.

Subpart 1. **Home care aide tasks.** ~~For a class B, C, or E licensee,~~ only a person who satisfies the requirements of subpart 2 or part 4668.0100, subpart 5, may perform the following services for clients:

A. ~~planning and~~ preparing modified diets, such as diabetic or low sodium diets;

B. reminding clients to take regularly scheduled medications or perform exercises;

C. household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

D. household chores when the client's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

E. assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the client is ambulatory, and if the client has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

Subp. 2. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 3. **Documentation.** ~~Class A, Class B, and class D E~~ licensees shall verify that the persons employed or contracted by the licensees to perform home care aide tasks have satisfied the requirements of this part and shall retain documentation in the personnel records. Persons who perform home care aide tasks must provide documentation to the employing or contracting licensees of satisfying this part. Class C licensees shall retain documentation of satisfying this part.

Subp. 4. **In-service training.** For each person who performs home care aide tasks, the licensee must comply with items A to C.

A. For each 12 months of employment, each person who performs home care aide tasks must complete at least six hours of in-service training in topics relevant to the provision of home care services, including that required by part 4668.0065, subpart 3, obtained from the licensee or another source.

B. Licensees shall retain documentation of satisfying this part and shall provide documentation to persons who have completed the in-service training.

~~C. Licensees may satisfy the in-service training requirements of this subpart by verifying that persons who perform home care aide tasks have completed some or all of the required in-service training while employed by another licensee or while licensed as a class C provider under part 4668.0200.~~

Subp. 5. **Class B supervision.** A class B licensee must have a registered nurse supervise or a licensed practical nurse monitor a person who provides home care aide tasks under this part no less often than the following schedule:

A. within 14 days after initiation of home care aide tasks; and

B. every 60 days thereafter, or more frequently if indicated by a clinical assessment.

If monitored by a licensed practical nurse, the client must be supervised at the residence by a registered nurse at least every other visit, and the licensed practical nurse must be under the direction of a registered nurse, according to *Minnesota Statutes*, sections 148.171 to 148.285.

Subp. 6. **Class E visits.** A class E licensee must visit the resident and observe the provision of home care services every 60 days after initiation of home care aide tasks to verify that the work is being performed adequately and to identify problems.

### 4668.0120 HOME MANAGEMENT TASKS.

Subpart 1. **Home management tasks.** Any person may perform services that are not listed in part 4668.0100, subpart 1, or part

4668.0110, subpart 1, including housekeeping, ~~laundry, meal preparation of regular snacks and meals,~~ and shopping.

Subp. 2. **Training of persons who perform home management tasks.** Except for the orientation training required by ~~part 4668.0075~~ Minnesota Statutes, section 144A.461, no training is required of persons who perform home management tasks.

**4668.0130** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0140 SERVICE AGREEMENTS.**

Subpart 1. **Service agreements.** No later than the second visit to a client, a licensee shall enter into a written service agreement with the client or the client's responsible person. Any modifications of the service agreement must be in writing and be signed by the client or the client's responsible person no later than the next visit to the client.

Subp. 2. **Contents of service agreement.** The service agreement required by subpart 1 must include:

- A. a description of the services to be provided, and their frequency;
- B. identification of the persons or categories of persons who are to provide the services;
- C. the schedule or frequency of sessions of supervision or monitoring required, if any;
- D. ~~how charges will be computed~~ fees for services;
- E. a plan for contingency action that includes:

- (1) the action to be taken by the licensee, client, and responsible persons, if scheduled services cannot be provided;
- (2) the method for a client or responsible person to contact a representative of the licensee whenever staff are providing services;
- (3) who to contact in case of an emergency or significant adverse change in the client's condition;
- (4) the method for the licensee to contact a responsible person of the client, if any; and
- (5) circumstances in which emergency medical services are not to be summoned, consistent with the Adult Health Care Decisions Act, *Minnesota Statutes*, chapter 145B, and declarations made by the client under that act.

~~Subp. 3. Exceptions for class C. Class C licensees need not comply with subpart 2, items B, and C, and E, subitem this item, subitems (2) and (5). Subitems (3) and (5) are not required for clients receiving only home management services.~~

**4668.0150** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0160 CLIENT RECORDS.**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Security.** ~~Client record information must be safeguarded against loss, destruction, or unauthorized use.~~ The licensee shall establish written procedures to control use and removal of client records from the provider's offices and for security in client residences and to establish criteria for release of information. The client record must be readily accessible to personnel authorized by the licensee to use the client record.

Subp. 3. to 5. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 6. **Content of client record.** The client record must contain:

- A. the following information about the client:
  - (1) name;
  - (2) address;
  - (3) telephone number;
  - (4) date of birth;
  - (5) dates of the beginning and end of services; and
  - (6) names, addresses, and telephone numbers of any responsible persons;
- B. a service agreement as required by part 4668.0140;

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C. medication and treatment orders, if any;

D. notes summarizing each contact with the client in the client's residence, signed by each individual providing service including volunteers, and entered in the record no later than two weeks after the contact;

E. names, addresses, and telephone numbers of the client's medical services providers and other home care providers, if known;

F. a summary following the termination of services, which includes the reason for the initiation and termination of services, and the client's condition at the termination of services.

Class C ~~and class E~~ licensees need only include the information required by items A, B, and E. Class E licensees need only include the information required by items A, B, D, and E.

Subp. 7. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0170** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0180 CLASS A PROVIDER, PROFESSIONAL HOME CARE AGENCY.**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Required services.** The licensee shall provide at least one of the following home care services directly:

A. professional nursing;

B. physical therapy;

C. speech therapy;

D. respiratory therapy;

E. occupational therapy;

F. nutritional services; ~~or~~

G. medical social services;

H. home health aide tasks; or

I. provision of medical supplies and equipment when accompanied by the provision of a home care service.

Subp. 3. to 9. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 10. **Equivalent requirements for certified providers.** A class A licensee that is certified for participation in Medicare as a home health agency under *Code of Federal Regulations*, title 42, part 484, need not comply with this part, or with the following ~~provisions of this chapter items~~, if the Medicare certification is based on compliance with the federal conditions of participation, and on survey and enforcement by the Minnesota Department of Health as agent for the United States Department of Health and Human Services:

A. part 4668.0040;

B. part 4668.0050;

C. part 4668.0060, subparts 2, 3, 4, and 7;

D. part 4668.0070, subparts ~~2~~ and ~~3~~;

E. part 4668.0080, subparts 1 and 2;

F. part 4668.0100, subparts 1 and 4 to 9;

G. part 4668.0110;

H. part 4668.0130;

I. part 4668.0140, subparts 1 and 2, items A to D;

J. part 4668.0150;

K. part 4668.0160;

L. part 4668.0180, subparts 1 to 9.

**4668.0190** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0200** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4668.0210 CLASS D PROVIDER, HOSPICE PROGRAM.**

Subpart 1. to 13. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 14. **Volunteer services.** If the licensee provides services through the use of volunteers, it shall comply with subparts 15 to ~~20~~ 19.

Subp. ~~15~~. **Criminal disqualification of volunteers.** A licensee shall not use the services of a volunteer who is disqualified from providing home care services because of a criminal conviction, under part ~~4668.0020~~.

Subp. ~~16~~. 15. **Volunteer training.** All volunteers who will provide services directly to clients of the licensee must complete a training course before providing any services. The training course may be combined with other training and must include the following topics:

- A. the orientation required by part 4668.0075;
- B. confidentiality of client records and communications between clients and licensee staff;
- C. goals and services of hospice care; and
- D. record keeping.

Subp. ~~17~~. 16. **Documentation of training.** The training required by subpart ~~16~~ 15 must be documented by attendance records.

Subp. ~~18~~. 17. **In-service training for volunteers.** The licensee shall make available to volunteers an in-service training program at least every three months. The in-service for volunteers may be provided in conjunction with in-service programs for employees.

Subp. ~~19~~. 18. **Paraprofessional tasks by volunteers.** Except as provided by subpart ~~20~~ 19, volunteers who perform home health aide tasks or home care aide tasks must meet the requirements of parts 4668.0100 and 4668.0110.

Subp. ~~20~~. 19. **Incidental paraprofessional tasks by volunteers.** Volunteers who have not met the qualifications under part 4668.0100, subpart 5, or 4668.0110, subpart 2, may perform home care aide tasks if the tasks are performed incidentally to the provision of other services, and are not performed as a regular part of the volunteer services.

Subp. ~~21~~. 20. **Bereavement services.** The licensee shall offer bereavement services to the client's family after the client's death. For purposes of this subpart, "family" includes persons related to the client or close significant others.

Subp. ~~22~~. 21. **Inpatient services.** The licensee shall provide inpatient services directly or shall arrange with one or more hospitals or nursing homes to provide inpatient services to the licensee's clients. If the arrangements are not subject to a contract, the licensee shall establish in writing the services that will be provided by the inpatient facility, the circumstances under which they are to be provided, and the procedures that will be followed in admitting and discharging clients.

Subp. ~~23~~. 22. **Equivalent requirements for certified providers.** A class D licensee that is certified for participation in Medicare as a hospice program under *Code of Federal Regulations*, title 42, part 418, need not comply with subparts 1 to 10, 12, 13, ~~16~~ 15 to ~~18~~ 17, ~~24~~ 20, and ~~22~~ 21, if the Medicare certification is based on compliance with the federal conditions of participation, and on survey and enforcement by the Minnesota Department of Health as agent for the United States Department of Health and Human Services.

#### **4668.0215 CLASS E PROVIDER, ASSISTED LIVING SERVICES.**

Subpart 1. **Scope.** This part applies only to an assisted living service holding a class E license.

Subp. 2. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

#### **4668.0218 INFORMATION AND REFERRAL SERVICES.**

The commissioner ~~may~~ shall request from licensees information necessary to establish and maintain information and referral services required by *Minnesota Statutes*, section 144A.47, and licensees shall provide the requested information. This information may be required to be provided together with the licensing information required by part 4668.0012, or may be required to be provided separately.

#### **4668.0220 SURVEYS AND INVESTIGATIONS.**

Subpart 1. **Surveys.** Except as provided in subpart 3 or 10, the commissioner may survey each applicant or licensee before issuing a new license or renewing an existing license. An applicant for a license that is certified and surveyed by the Minnesota Department of Health for Medicare or medical assistance shall be surveyed at the time of its next certification survey. Applicants and licensees shall provide any and all information requested by the surveyor or investigator that is within the scope of licensure.

Subp. 2. **Coordination of surveys.** If feasible, the commissioner shall survey licensees to determine compliance with this chapter

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at the same time as surveys for certification for Medicare and medical assistance if Medicare certification is based on compliance with the federal conditions of participation and on survey and enforcement by the Minnesota Department of Health as agent for the United States Department of Health and Human Services.

Subp. 3. to 10. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

### 4668.0230 FINES FOR UNCORRECTED VIOLATIONS.

Subpart 1. to 3. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 4. **Schedule of fines for violations of Vulnerable Adults Act.** For each violation of a statutory provision subject to a fine under *Minnesota Statutes*, section 626.557, the following fines shall be assessed:

- A. subdivision 3, \$250;
- B. subdivision 3a, \$100;
- C. subdivision 4, \$250;
- D. subdivision 9, \$250; and
- E. subdivision 17, \$250.

Subp. 5. Schedule of fines for violations of rules. For each violation of a rule provision subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the following fines shall be assessed for the respective rule that was violated:

- ~~A.~~ part 4668.0009, subpart 5, \$100 ~~4668.0008, subpart 3, \$300;~~
- B. for providing false information required by part 4668.0012, subpart 7 ~~6~~, \$500;
- C. part 4668.0012, subpart 9 ~~8~~, \$100;
- D. part 4668.0012, subpart ~~18~~ 17, \$50;
- E. a variance, under part 4668.0016, subpart 8, the fine shall be the amount of the fine established for the rule that was varied;
- F. part 4668.0019, \$250;
- G. part 4668.0020, subpart 3, \$300;
- H. ~~part 4668.0020, subpart 4, \$500;~~
- ~~I.~~ part 4668.0020, subpart 9 ~~8~~, \$300;
- ~~J.~~ part 4668.0020, subpart ~~11~~ 10, \$300;
- ~~K.~~ part 4668.0020, subpart ~~12~~ 11, \$300;
- ~~L.~~ part 4668.0020, subpart ~~14~~ 13, \$300;
- ~~M.~~ part 4668.0020, subpart ~~18~~ 17, item A, \$300;
- ~~N.~~ part 4668.0020, subpart ~~18~~ 17, item B, \$100;
- ~~P.~~ part 4668.0030, subpart 2, \$250;
- ~~Q.~~ part 4668.0030, subpart 3, \$50;
- ~~R.~~ part 4668.0030, subpart 4, \$50;
- ~~S.~~ part 4668.0030, subpart 5, \$50;
- ~~T.~~ part 4668.0030, subpart 6, \$50;
- ~~U.~~ part 4668.0030, subpart 7, \$500;
- ~~V.~~ part 4668.0030, subpart 8 ~~7~~, \$250;
- ~~W.~~ part 4668.0035, subpart 1, \$250;
- ~~X.~~ part 4668.0035, subpart 2, \$100;
- ~~Y.~~ part 4668.0035, subpart 3, \$100;
- ~~Z.~~ part 4668.0040, subpart 1, \$250;
- ~~AA.~~ part 4668.0040, subpart 2, \$50;
- ~~BB.~~ part 4668.0040, subpart 3, \$250;

~~CC.~~ AA. part 4668.0050, subpart 1, \$350;  
~~DD.~~ BB. part 4668.0050, subpart 2, \$100;  
~~EE.~~ CC. part 4668.0060, subpart 1, \$350;  
~~FF.~~ DD. part 4668.0060, subpart 2, \$50;  
~~GG.~~ EE. part 4668.0060, subpart 4, \$350;  
~~HH.~~ FF. part 4668.0060, subpart 5, \$350;  
~~H.~~ GG. part 4668.0060, subpart 6, \$500;  
~~JJ.~~ HH. part 4668.0060, subpart 7, \$300;  
~~KK.~~ II. part 4668.0065, subpart 1, \$500;  
~~LL.~~ JJ. part 4668.0065, subpart 2, \$500;  
~~MM.~~ KK. part 4668.0065, subpart 3, \$300;  
~~NN.~~ LL. part 4668.0070, subpart ~~1~~ 2, \$50;  
~~OO.~~ MM. part 4668.0070, subpart ~~2~~ 3, \$50;  
~~PP.~~ NN. part 4668.0070, subpart ~~3~~ 4, \$50;  
~~QQ.~~ OO. part 4668.0075, subpart 1, \$300;  
~~RR.~~ PP. part 4668.0075, subpart 2, \$100;  
~~SS.~~ QQ. part 4668.0075, subpart 4, \$50;  
~~TT.~~ RR. part 4668.0080, subpart 1, \$300;  
~~UU.~~ SS. part 4668.0080, subpart 2, \$300;  
~~VV.~~ TT. part 4668.0080, subpart 3, \$300;  
~~WW.~~ UU. part 4668.0080, subpart 4, \$300;  
~~XX.~~ VV. part ~~4668.0080~~, subpart ~~5~~, \$300;  
WW. part 4668.0100, subpart 1, \$350;  
~~YY.~~ XX. part 4668.0100, subpart 2, \$350;  
~~ZZ.~~ YY. part 4668.0100, subpart 3, \$500;  
~~AAA.~~ ZZ. part 4668.0100, subpart 4, \$350;  
~~BBB.~~ AAA. part 4668.0100, subpart 5, \$300;  
~~CCC.~~ BBB. part 4668.0100, subpart 6, \$300;  
~~DDD.~~ CCC. part 4668.0100, subpart 7, \$50;  
~~EEE.~~ DDD. part 4668.0100, subpart 8, \$350;  
~~FFF.~~ EEE. part 4668.0100, subpart 9, \$350;  
~~GGG.~~ FFF. part 4668.0110, subpart 1, \$350;  
~~HHH.~~ GGG. part 4668.0110, subpart 2, \$300;  
~~II.~~ HHH. part 4668.0110, subpart 3, \$50;  
~~JJJ.~~ III. part 4668.0110, subpart 4, \$300;  
~~KKK.~~ JJJ. part ~~4668.0110~~, subpart ~~5~~, \$350;  
KKK. part ~~4668.0110~~, subpart ~~6~~, \$350;  
LLL. part ~~4668.0120~~, subpart ~~2~~, \$50;

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MMM. part 4668.0130, subpart 1, \$300;  
~~LLL~~. NNN. part 4668.0130, subpart 2, \$300;  
~~MMM~~. OOO. part 4668.0130, subpart 3, \$300;  
~~NNN~~. PPP. part 4668.0130, subpart 4, \$50;  
~~OOO~~. QQQ. part 4668.0140, subpart 1, \$250;  
~~PPP~~. RRR. part 4668.0140, subpart 2, \$50;  
~~QQQ~~. SSS. part 4668.0150, subpart 2, \$350;  
~~RRR~~. TTT. part 4668.0150, subpart 3, \$350;  
~~SSS~~. UUU. part 4668.0150, subpart 4, \$350;  
~~TTT~~. VVV. part 4668.0150, subpart 5, \$350;  
~~UUU~~. WWW. part 4668.0150, subpart 6, \$350;  
~~VVV~~. XXX. part 4668.0160, subpart 1, \$100;  
~~WWW~~. YYY. part 4668.0160, subpart 2, \$100;  
~~XXX~~. ZZZ. part 4668.0160, subpart 3, \$50;  
~~YYY~~. AAAA. part 4668.0160, subpart 4, \$100;  
~~ZZZ~~. BBBB. part 4668.0160, subpart 5, \$50;  
~~AAAA~~. CCCC. part 4668.0160, subpart 6, \$100;  
~~BBBB~~. DDDD. part 4668.0160, subpart 7, \$250;  
~~CCCC~~. EEEE. part 4668.0170, subpart 1, \$500;  
~~DDDD~~. FFFF. part 4668.0170, subpart 2, \$500;  
~~EEEE~~. GGGG. part 4668.0180, subpart 3, \$500;  
~~FFFF~~. HHHH. part 4668.0180, subpart 4, \$300;  
~~GGGG~~. IIII. part 4668.0180, subpart 5, \$300;  
~~HHHH~~. JJJJ. part 4668.0180, subpart 6, \$300;  
~~IIII~~. KKKK. part 4668.0180, subpart 8, \$200;  
~~JJJJ~~. LLLL. part 4668.0180, subpart 9, \$100;  
~~KKKK~~. MMMM. part 4668.0190, \$500;  
~~LLLL~~. NNNN. part 4668.0200, subpart 2, \$500;  
~~MMMM~~. OOOO. part 4668.0200, subpart 4, \$100;  
~~NNNN~~. PPPP. part 4668.0200, subpart 5, \$50;  
~~OOOO~~. QQQQ. part 4668.0200, subpart 6, \$500;  
~~PPPP~~. RRRR. part 4668.0210, subpart 3, \$100;  
~~QQQQ~~. SSSS. part 4668.0210, subpart 4, \$100;  
~~RRRR~~. TTTT. part 4668.0210, subpart 5, \$100;  
~~SSSS~~. UUUU. part 4668.0210, subpart 6, \$100;  
~~TTTT~~. VVVV. part 4668.0210, subpart 7, \$100;  
~~UUUU~~. WWWW. part 4668.0210, subpart 8, \$350;  
~~VVVV~~. XXXX. part 4668.0210, subpart 9, \$300;  
~~WWWW~~. YYYY. part 4668.0210, subpart 10, \$300;  
~~XXXX~~. ZZZZ. part 4668.0210, subpart 11, \$300;  
~~YYYY~~. AAAAA. part 4668.0210, subpart 12, \$350;  
~~ZZZZ~~. BBBBB. part 4668.0210, subpart 13, \$100;

~~AAAAA~~. part 4668.0210, subpart ~~15~~, \$300;  
~~BBBBB~~. CCCCC. part 4668.0210, subpart ~~16~~ 15, \$350;  
~~CCCCC~~. DDDDD. part 4668.0210, subpart ~~17~~ 16, \$50;  
~~DDDDD~~. EEEE. part 4668.0210, subpart ~~18~~ 17, \$300;  
~~EEEE~~. FFFF. part 4668.0210, subpart ~~19~~ 18, \$300;  
~~FFFF~~. GGGG. part 4668.0210, subpart ~~21~~ 20, \$350;  
~~GGGG~~. HHHH. part 4668.0210, subpart ~~22~~ 21, the first sentence, \$350;  
~~HHHH~~. IIII. part 4668.0210, subpart ~~22~~ 21, the second sentence, \$50;  
~~HHH~~. JJJJ. part 4668.0220, subpart 6, \$500; and  
~~JJJJ~~. KKKK. part 4668.0220, subpart 8, \$500.

**4668.0240 FAILURE TO CORRECT DEFICIENCY AFTER FINE HAS BEEN IMPOSED.**

If, upon subsequent reinspection after a fine has been imposed under part 4668.0230, the deficiency has still not been corrected, another fine shall be assessed. This fine shall be double the amount of the previous fine.

**4669.0001 AUTHORITY.**

This chapter establishes fees for the licensing of home care and hospice providers, as required by *Minnesota Statutes*, section 144A.46, subdivision 1, paragraph (c), and part 4668.0012, subpart ~~19~~ 18.

**4669.0010** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4669.0020** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**4669.0030 PROCEDURE FOR PAYING LICENSE FEE.**

Subpart 1. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

Subp. 2. **Verification of revenues.** Under a circumstance listed in item A or B, the commissioner may shall require each applicant to verify its revenues by providing a copy of an income tax return; informational tax return, such as an Internal Revenue Service form 1065 partnership return or form 990 tax-exempt organization return; Medicare cost report; certified financial statement; or other documentation that verifies the accuracy of the revenues derived from the provision of home care services for the reporting period on which the fee is based:

- A. the commissioner has received information that a revenue report may be inaccurate; or
- B. the provider has been randomly selected for compliance verification.

**4669.0040 FEE LIMITATION.**

A provider is subject to one registration license fee, regardless of the number of distinct programs through which home care services are provided unless the provider operates under multiple units as set forth in part 4668.0012, subpart 2. The fee shall be based on the total revenue of all home care ~~programs~~ services.

**4669.0050 FEE SCHEDULE.**

Subpart 1. **Fees for classes A, B, and D.** The amount of the fee for class A, class B, and class D providers, shall be determined according to the following schedule:

- A. for revenues greater than \$1,500,000, \$4,000;
- B. for revenues greater than \$1,275,000 and no more than \$1,500,000, \$3,500;
- C. for revenues greater than \$1,100,000 and no more than \$1,275,000, \$3,000;
- D. for revenues greater than \$950,000 and no more than \$1,100,000, \$2,500;
- E. for revenues greater than \$850,000 and no more than \$950,000, \$2,250;
- F. for revenues greater than \$750,000 and no more than \$850,000, \$2,000;

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## Proposed Rules

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- G. for revenues greater than \$650,000 and no more than \$750,000, \$1,750;
- H. for revenues greater than \$550,000 and no more than \$650,000, \$1,500;
- I. for revenues greater than \$450,000 and no more than \$550,000, \$1,250;
- J. for revenues greater than \$350,000 and no more than \$450,000, \$1,000;
- K. for revenues greater than \$250,000 and no more than \$350,000, \$750;
- L. for revenues greater than \$100,000 and no more than \$250,000, \$500; and
- M. for revenues greater than \$25,000 and no more than \$100,000, \$250; and
- N. for class D providers with annual revenues no more than \$25,000, \$250 \$100.

Subp. 2. to 4. [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

**REFERENCE CHANGE.** The references to "144A.43 to 144A.48" will be changed to "144A.43 to 144A.49" in chapters 4668 and 4669.

**EFFECTIVE DATE.** [See *State Register*, Volume 15, Number 52, pages 2668-2698.]

## Department of Public Safety

### Proposed Permanent Rules Relating to Drivers License Requirements of Persons With Diabetes

#### Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-Five or More Persons Request a Hearing

**NOTICE IS HEREBY GIVEN** that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The Department's statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 299A.01, subdivision 6, and section 14.06.

All persons have 30 days, until 4:30 p.m., October 14, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. 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 rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m., October 14, 1992. 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 must include 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.

**PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on November 16, 1992, unless a sufficient number withdraw their request in writing. The hearing will be in accordance with the notice of public hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety, Driver and Vehicle Services Division, on or after October 15, 1992, between the hours of 8:00 a.m. and 4:30 p.m. at (612) 296-2608.

Comments or written requests for a public hearing must be submitted to: Laura Nehl-Trueman, Department of Public Safety, Driver and Vehicle Services, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, MN 55155, (612) 296-2608.

The proposed rules 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 rules as noticed.

A free copy of the rules is available upon request from Laura Nehl-Trueman at the address and telephone number listed above.

The rule amendments relate to driver's license requirements for persons with diabetes. The amendments to the rules reflect the advances that have been made in medical technology in the control of diabetes. The amendments include the repeal of part 7410.2600. Therefore, the rules no longer include reporting requirements for non-insulin treated diabetics. Part 7410.2610 has been amended to incorporate the reporting requirements for insulin-treated diabetics from part 7410.2600. The requirements under part 7410.2610 have been amended to provide less stringent reporting requirements for insulin-treated diabetics who have an episode. Furthermore, amendments have been made in the area of driver's license cancellation. The rules set forth a new subpart on cancellation which makes a distinction between episodes that occur while driving and those that occur while not driving.

**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 upon request from Laura Nehl-Trueman at the address and telephone number listed above.

In preparing the rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of these rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driver's license, the effect is outweighed by the Department's need to keep the roads and highways safe. The Department's evaluation of the small business requirements is further addressed in the Statement of Need and Reasonableness.

*Minnesota Statutes*, section 14.11, subdivision 1, does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules. Adoption of the rules will not have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11, subdivision 2. *Minnesota Statutes*, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

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 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 rules, must submit the written request to Laura Nehl-Trueman at the address and telephone number listed above.

Dated: 27 August 1992

Thomas H. Frost, Commissioner  
Department of Public Safety

**Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that a public hearing on the above-entitled matter will be held in Room 116B, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, on Monday, November 16, 1992, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

**PLEASE NOTE, HOWEVER:** that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Public Safety. To verify whether a hearing will be held, please call the Department of Public Safety, Driver and Vehicle Services Division, on or after October 15, 1992, between the hours of 8:00 a.m. and 4:30 p.m. at (612) 296-2608.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period, the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written material or responses must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record, the Administrative Law Judge will write a report as provided in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20, and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

A free copy of the rules is available upon request from Laura Nehl-Trueman, Department of Public Safety, Driver and Vehicle Services, 208 Transportation Building, St. Paul, MN 55155, (612) 296-2608.

**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

Additional copies of the rules will be available at the hearing. If you have any questions on the content of the rules contact Laura Nehl-Trueeman at the address or telephone number listed above.

The rule amendments relate to driver's license requirements for persons with diabetes. The amendments to the rules reflect the advances that have been made in medical technology in the control of diabetes. The amendments include the repeal of part 7410.2600. Therefore, the rules no longer include reporting requirements for non-insulin treated diabetics. Part 7410.2610 has been amended to incorporate the reporting requirements for insulin-treated diabetics from part 7410.2600. The requirements under part 7410.2610 have been amended to provide less stringent reporting requirements for insulin-treated diabetics who have an episode. Furthermore, amendments have been made in the area of driver's license cancellation. The rules set forth a new subpart on cancellation which makes a distinction between episodes that occur while driving and those that occur while not driving.

The Department's statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 299A.01, subdivision 6, and section 14.06.

**NOTICE IS HEREBY GIVEN** that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department 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 Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

In preparing the rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of a driver's license, the effect is outweighed by the Department's need to keep the roads and highways safe. The Department's evaluation of the small business requirements is further addressed in the Statement of Need and Reasonableness.

*Minnesota Statutes*, section 14.11, subdivision 1, does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules. Adoption of the rules will not have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11, subdivision 2. *Minnesota Statutes*, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees.

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

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148 or 1-800-657-3889.

Dated: 27 August 1992

Thomas H. Frost, Commissioner  
Department of Public Safety

### Rules as Proposed

#### **7410.2610 INSULIN-TREATED DIABETES RELATED LOSS OF CONSCIOUSNESS OR VOLUNTARY CONTROL MELLITUS.**

Subpart 1. **Scope.** This part applies to drivers and applicants for driving privileges drivers' licenses who experience a loss of consciousness or voluntary control due to insulin reaction or acidosis have diabetes and are treated with insulin.

Subp. 2. **Definition Definitions.** The terms in this part have the meanings given them in this subpart.

A. "Applying" means the completion of a department initial application, renewal, or duplicate driver's license form.

B. "Commissioner" means the commissioner of the Department of Public Safety, acting directly or through authorized officers and agents.

C. "Department" means the Department of Public Safety.

D. "Driving-related episode" means an episode that occurs while a person is driving, operating, or in physical control of a motor vehicle.

E. "Episode" means loss of consciousness or voluntary control due to hypoglycemia or hyperglycemia.

F. "Loss of consciousness or voluntary control" means the inability to assume and retain an upright posture without support or the inability to overcome diabetic symptoms without the assistance of another.

Subp. 3. ~~Reports required~~ Reporting diagnosis of insulin-treated diabetes or episode. A person shall report a ~~diabetes related episode of loss of consciousness or voluntary control due to insulin reaction or acidosis~~ diagnosis of insulin-treated diabetes or an episode, in writing, to the department as follows:

A. ~~after a diagnosis of insulin-treated diabetes:~~

(1) ~~at the time of applying for a driver's license, if an applicant has experienced an episode; or~~

~~B. (2) within 30 days after the episode, if a driver experiences an episode.~~

~~Each report must be accompanied by a physician's report indicating the cause of the episode and the person's prognosis for control of the diabetic condition in the future, on a form prescribed by the commissioner.~~

~~A driver or applicant who experiences an episode of loss of consciousness or voluntary control due to insulin reaction or acidosis shall submit a physician's statement~~ diagnosis;

B. ~~for a driving-related episode:~~

(1) ~~within 30 days after the episode; and~~

(2) ~~on a regularly scheduled physician's statement as required in subpart 3a; and~~

C. ~~for a non-driving-related episode, on a regularly scheduled physician's statement as required in subpart 3a.~~

~~If a person has reason to know the requirements of items A and B, and willfully fails to report or willfully makes a material misrepresentation to the department concerning the person's diabetic condition, the commissioner shall suspend the person's driver's license for six months from the date the department discovers the failure to report or misrepresentation.~~

Subp. 3a. Physicians statement required. A physician's statement, on a form prescribed by the commissioner, is required:

A. ~~after the person:~~

(1) ~~is diagnosed as having insulin-treated diabetes; or~~

(2) ~~has a driving-related episode under subpart 3; and~~

B. ~~every six months from the date of the episode on a form prescribed by the commissioner until the person has been episode free for a year, unless the reporting physician recommends more frequent reports. After that year the person shall submit a physician's statement; and then~~

C. ~~annually until the person has been episode free for four years, unless the physician recommends more frequent reports; and then~~

D. ~~every four years; and additionally~~

E. ~~as recommended by the physician or by the department.~~

~~The six-month, one-year, or four-year period will begin from the date the most recent physician's statement has been received and approved by the department. During a period of cancellation or suspension under this part, the department shall not require a physician's statement until the end of the cancellation or suspension period.~~

~~If a person fails to return a physician's statement to the department within 30 days from the date of mailing, the commissioner shall cancel the person's driver's license until the physician's statement is submitted to the department and accepted.~~

~~The physician's statement must indicate the date of each of the person's episodes since the previous physician's statement, the cause of each episode, whether the person is cooperating in the treatment of the condition, the person's prognosis for control of the person's diabetic condition, and whether the person is medically qualified to exercise reasonable and ordinary control over a motor vehicle on the public roads.~~

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 5a. Cancellation or denial. After a review of a person's physician's statement, the commissioner shall cancel or deny a person's driver's license under the conditions and for the periods stated as follows:

A. If the commissioner receives a physician's statement that indicates that the person is not medically qualified to exercise

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## Proposed Rules

reasonable and ordinary control over a motor vehicle, the period of cancellation or denial will be based on the recommendation of the physician and the department unless the cancellation period in item B or C applies. If the department and the treating physician do not agree on the cancellation period, the physician's statement and the person's medical history will be submitted to the Medical Review Board for its recommendation upon the request of the individual or the physician.

B. If a person has a driving-related episode, the person's driver's license will be canceled for a period of six months from the date of the episode.

C. If a person has a driving-related episode that resulted from the use of alcohol or a controlled substance, the person's driver's license will be canceled for a period of one year from the date of the episode.

Subp. 5b. Notice. The commissioner shall notify a person whose driver's license has been or is subject to cancellation, suspension, or denial. The notification must be in writing and be personally served or sent by first-class mail to the person's last known address shown on department records. The notice must contain:

A. the reason for the cancellation, suspension, or denial;

B. the length of withdrawal;

C. a statement that a person has a right to an administrative review; and

D. the requirements for reinstatement of the person's driver's license.

The notice is deemed received three days after mailing by the department to the last known address of the person shown on department records.

Subp. 6. Reinstatement or issuance. For reinstatement, The commissioner shall require (+) reinstate or issue the driver's license of a person whose license has been suspended, canceled, or denied when:

A. the period of suspension, if any, has expired;

B. the person has paid the suspension reinstatement fee as required by statute;

C. no withdrawal of the person's driver's license is outstanding;

D. the requirements that resulted in suspension, cancellation, or denial have been completed; and

E. the person submits a physician's statement containing favorable long and short term prognoses for the episode free control of the person's condition, indicating that the person is cooperating in the treatment of the condition, and indicating the person is medically qualified to exercise reasonable and proper control over a motor vehicle on the public roads, and (2) a statement by the applicant indicating the date of the last episode of loss of consciousness or voluntary control, on a form prescribed by the commissioner, indicating:

(1) the date of each of the person's episodes since the previous physician's statement;

(2) the cause of each episode;

(3) the person is cooperating in the treatment of the condition;

(4) a favorable prognosis for the control of the person's diabetic condition; and

(5) the person is medically qualified to exercise reasonable and ordinary control over a motor vehicle on the public roads.

**REPEALER.** Minnesota Rules, parts 7410.2600; and 7410.2610, subparts 4 and 5, are repealed.

## Department of Public Safety

### Proposed Permanent Rules Relating to Vehicle Ignition Interlock Devices

#### Notice of Intent to Adopt Rules Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 171.305, subdivision 3. The Commissioner also has general rulemaking authority under *Minnesota Statutes*, section 299A.01, subdivision 6.

All persons have 30 days, until 4:30 p.m., October 14, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the 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 rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on October 14, 1992. 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 must include 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 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: Lowell Van Berkom, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104, (612) 642-0700.

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

A free copy of the rules is available upon request from Lowell Van Berkom at the address and telephone number listed above.

The rules establish performance standards for Breath Alcohol Ingestion Interlock Devices (BAIIDs). The rules also set out certification standards and fees for manufacturers of the devices. A BAIID is a breath alcohol sensing instrument that prevents a vehicle from starting if the driver's alcohol concentration exceeds a certain amount. For the most part, the rules contain device standards consistent with federal model standards for BAIIDs. BAIIDs will be used in a pilot program that targets a high risk population of drivers who have lost their licenses or driving privileges for three or more DWIs. To be eligible for a limited license under the program, a person must serve at least one-half of the required abstinence period, must complete all rehabilitation requirements, and must agree to drive a vehicle equipped with a BAIID. The purpose of the pilot program is to test the effectiveness of this relatively new technological DWI countermeasure.

**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 upon request from Lowell Van Berkom at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will affect small businesses which are engaged in building, distributing, installing, calibrating, and removing BAIIDs. Other small businesses affected by the proposed rules are employers of potential participants in the program. The Department has considered the methods for reducing the impact of the rules on small businesses, as required by section 14.115. The Department's primary concern in proposing and adopting these rules is the safety of all citizens who use the highway system. In general, the Department has developed the proposed rules to impose as small a burden as possible, consistent with public safety. This applies to all businesses, not just small businesses. After considering the methods for reducing the impact of the rules on small businesses, the Department has concluded that it is inconsistent with public safety to make specific exceptions to the rules for small businesses. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement Of Need And Reasonableness.

*Minnesota Statutes*, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

*Minnesota Statutes*, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

In accordance with *Minnesota Statutes*, section 16A.128, subdivision 1a, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules in the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's approval are attached to the Statement Of Need And Reasonableness.

In accordance with *Minnesota Statutes*, section 16A.128, subdivision 2a, the Department has sent a copy of this notice and a copy of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting this notice to the *State Register*.

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 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

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## Proposed Rules

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General, or who wish to receive a copy of the adopted rules, must submit the written request to Lowell Van Berkomp at the address and telephone number listed above.

Dated: 25 August 1992

Thomas H. Frost, Commissioner  
Department of Public Safety

### Rules as Proposed (all new material)

#### IGNITION INTERLOCK DEVICES

##### 7409.3700 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7409.3700 to 7409.3770 have the meanings given them in this part and part 7409.0100.

Subp. 2. **AC.** "AC" is the abbreviation for alcohol concentration and means the number of grams of alcohol per 210 liters of breath.

Subp. 3. **Alcohol.** "Alcohol" means ethanol or ethyl alcohol.

Subp. 4. **Alcohol setpoint.** "Alcohol setpoint" means the minimum AC at which a BAIID is set to lock a motor vehicle's ignition.

Subp. 5. **Authorized person.** "Authorized person" means a participant or any other licensed driver who has completed the orientation provided for in part 7409.3750, subpart 4.

Subp. 6. **BAIID.** "BAIID" is the abbreviation for breath alcohol ignition interlock device and means a device designed to allow a vehicle ignition to start the vehicle engine when the AC test result is below the alcohol setpoint and to lock the vehicle ignition to prevent the vehicle engine from starting when the AC test result is at or above the alcohol setpoint.

Subp. 7. **Breath sample.** "Breath sample" means expired human breath containing primarily air from the deep lung.

Subp. 8. **Circumvention or bypass.** "Circumvention" or "bypass" means an overt, conscious attempt to provide an air sample to the BAIID other than a breath sample from an authorized person and thus to permit a person with an AC at or above the alcohol setpoint to start the vehicle engine. Circumvention or bypass includes the use of a human breath sample that has intentionally been altered so as to remove or reduce the amount of alcohol contained in the breath sample.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Department of Public Safety or an authorized agent.

Subp. 10. **Department.** "Department" means the Department of Public Safety or an authorized officer or agent.

Subp. 11. **Fail-safe.** "Fail-safe" means the BAIID must lock a motor vehicle's ignition.

Subp. 12. **Participant.** "Participant" means a person who has been issued a limited license under *Minnesota Statutes*, section 171.305, subdivision 5.

Subp. 13. **Service provider.** "Service provider" means a dealer, distributor, supplier, or service center of a BAIID used in Minnesota, designated by the manufacturer and approved by the department.

Subp. 14. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds put forth in good faith that are not arbitrary, irrational, unreasonable, or irrelevant and that make the proposition asserted more likely than not, provided the grounds are based on at least one of the following sources:

- A. written information from an identified person;
- B. facts or statements supplied by a manufacturer of a BAIID;
- C. facts or statements supplied by a designated service provider;
- D. court documents and police records; and
- E. facts of which the commissioner or the commissioner's employees have personal knowledge.

Subp. 15. **Tampering.** "Tampering" means an overt, conscious attempt to disable or disconnect the BAIID from its power source, or any other act intended to start the vehicle engine without providing a breath sample to the BAIID for analysis.

##### 7409.3710 PURPOSE AND SCOPE.

The purpose of parts 7409.3700 to 7409.3770 is to establish performance standards for BAIIDs and certification standards and fees for manufacturers of BAIIDs, to be used pursuant to *Minnesota Statutes*, section 171.305.

##### 7409.3720 STANDARDS AND SPECIFICATIONS.

Subpart 1. **Alcohol setpoint.** The alcohol setpoint is 0.020 AC.

Subp. 2. **Breath samples.** A BAIID must meet all of the following specifications concerning breath samples and vehicle operation:

- A. A BAIID must determine the AC of a breath sample.

B. A minimum pressure requirement of 12 inches of water is required for the BAIID to accept a breath sample for analysis of AC.

C. The BAIID must lock the vehicle ignition at least 90 percent of the time when the AC of the breath sample is 0.03 or more. The BAIID must lock the vehicle ignition at least 99.5 percent of the time when the AC of the breath sample is 0.04 or more.

D. The BAIID must lock the vehicle ignition no more than ten percent of the time when the AC of the breath sample is 0.01 or less. The BAIID must lock the vehicle ignition no more than 0.5 percent of the time when the AC of the breath sample is 0.00.

E. When the BAIID allows the vehicle engine to start, the BAIID must require a breath sample to determine AC at variable time intervals ranging from five to 30 minutes while the engine is running.

F. The BAIID must be prepared to accept a breath sample for analysis within three minutes of an AC result of 0.05 or less.

G. If the vehicle stalls after the BAIID has allowed the vehicle engine to start, the BAIID must permit the vehicle engine to start without requiring a breath sample for the next two minutes after the stall.

Subp. 3. **Power source.** The BAIID must be designed to be operated from a 12-volt DC vehicle battery. The BAIID must meet the requirements of this part when operated with automotive voltages of 11 to 16 volts DC. When operated with voltages of less than 11 volts or more than 16 volts, the BAIID must meet the requirements of this part or fail-safe.

Subp. 4. **Temperature.** The BAIID must meet the requirements of this part when operated within a temperature range of +85 degrees Celsius to -40 degrees Celsius (+ 185 degrees Fahrenheit to -40 degrees Fahrenheit). If the BAIID is exposed to temperatures above +85 degrees Celsius or below -40 degrees Celsius, then the BAIID must meet the requirements of this part or fail-safe. The BAIID must be ready for operation within five minutes of being turned on at -20 degrees Celsius (-4 degrees Fahrenheit).

Subp. 5. **Electromagnetic interference.** The BAIID must either fail-safe or meet the requirements of this part when exposed to radio frequency interference or electromagnetic interference sources normally found in an operating motor vehicle.

Subp. 6. **Tampering, circumvention, or bypass.** The BAIID must provide a method to detect tampering, circumvention, or bypass. The BAIID must have a method to prevent an unauthorized person from operating the BAIID. A warning label visible to front seat occupants must be attached to the BAIID stating: "It is a misdemeanor to circumvent, bypass, or tamper with this device."

Subp. 7. **Data recording.** A BAIID must record the following information:

A. the date and time of any attempt to tamper with, circumvent, or bypass the BAIID;

B. the date and time of any use of the vehicle or any attempt to use the vehicle, including all times that the vehicle engine was started or stopped;

C. the date, time, and AC of each breath sample provided to the BAIID;

D. the date and time of any malfunction of the BAIID;

E. the date and time that a breath sample was required under subpart 2, item E, and a breath sample was not provided;

F. the date a "service required" message was issued; and

G. the date service is performed.

Subp. 8. **Driver messages.** The BAIID must provide the following information to the driver:

A. BAIID readiness for acceptance of a breath sample, including samples required under subpart 2, item E;

B. the AC of each breath sample; and

C. a notice to obtain service within seven days if a breath sample has an AC at or above the alcohol setpoint, if the BAIID detects tampering, circumvention, or bypass, or if a breath sample is not provided as required by subpart 2, item E.

Subp. 9. **Need for service.** The BAIID must meet the requirements of this part for a minimum period of 37 days without requiring intervening service.

Subp. 10. **Ignition lockout.** The BAIID must permanently lock the ignition if service under subpart 8, item C, or part 7409.3750, subpart 5, item A, is not obtained within seven days.

#### **7409.3730 CERTIFICATION REQUIREMENTS.**

Subpart 1. **Application for certification.** A manufacturer may submit a BAIID model to the commissioner for certification.

**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

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Application for certification must be on a form prescribed by the department. Each application must be for only one model or type of BAIID. A manufacturer must make separate applications for models or types of BAIIDs that differ in any operational aspect. An application for certification must include, in addition to other information necessary to the administration of the pilot program that the department may require:

- A. the name and address of the manufacturer;
- B. the name and model number of the BAIID;
- C. a detailed description of the BAIID, including instructions for installation and operation, and technical specifications describing the BAIID's accuracy, security, data collection and recording, tamper detection, and environmental features;
- D. a certification by the manufacturer that all BAIIDs sold, offered for sale, leased, or installed in Minnesota will meet the requirements for certification set forth in these specifications;
- E. a certification by the manufacturer that the requirements of part 7409.3760 have been met; and
- F. a certification fee of \$5,000.

Subp. 2. **Testing data.** For any BAIID model submitted for certification, the manufacturer must provide data from an independent laboratory approved by the department, demonstrating that the BAIID model meets each of the requirements of part 7409.3720. The data must be obtained from a production line unit or from production line units of the BAIID model. The data must include the following information:

- A. The data must show the AC for a minimum of five human subjects with an AC ranging from 0.030 to 0.039. A minimum of three breath samples must be provided to the BAIID by each human subject for a total of 30 breath samples. The requirements of part 7409.3720, subpart 2, item C, must be met.
- B. The data must show the AC for a minimum of five human subjects with an AC ranging from 0.040 to 0.049. A minimum of three breath samples must be provided to the BAIID by each human subject for a total of 30 breath samples. The requirements of part 7409.3720, subpart 2, item C, must be met.

Subp. 3. **Equipment.** For any BAIID model submitted for certification, two BAIIDs and the materials necessary to conduct 100 breath tests must be submitted by the manufacturer to the department. The BAIIDs must be installed in vehicles provided by the manufacturer for independent testing by the department, at no expense to the department.

Subp. 4. **Design changes.** The manufacturer shall notify the department in writing of any changes in the components, design, or installation and operation instructions of any BAIID model certified by the commissioner. The manufacturer shall supply supportive documentation to the department establishing that the changes do not affect the ability of the BAIID to comply with the requirements of part 7409.3720.

Subp. 5. **Length of certification.** Certification is effective until revocation under part 7409.3770, subpart 1, or expiration of the program established under *Minnesota Statutes*, section 171.305, whichever is earlier.

### 7409.3740 MANUFACTURER'S RESPONSIBILITIES.

Subpart 1. **Designated service provider.** Upon certification of the BAIID by the commissioner, the manufacturer shall submit to the department for approval its designated service providers. The manufacturer may designate itself as a service provider. To receive department approval, the manufacturer shall submit to the department:

- A. certification from each service provider that the service provider's responsibilities as listed in parts 7409.3750 and 7409.3760 will be met; and
- B. a certificate of insurance as required in part 7409.3760.

Subp. 2. **Installation instructions.** The manufacturer shall develop written instructions for installing the BAIID. The instructions must include inspection procedures to ensure the vehicle in which the BAIID will be installed is in a mechanical and electrical condition that will allow the BAIID to meet the specifications in part 7409.3720. The instructions must be provided to all service providers that will install the BAIID.

### 7409.3750 SERVICE PROVIDER'S RESPONSIBILITIES.

Subpart 1. **Service locations and hours.** A service provider shall provide for service locations as follows:

- A. The service provider shall make available a minimum of one permanent installation and service location within the state. The permanent service center must establish and maintain reasonable business hours for a minimum of five days a week. A schedule stating those hours must be submitted to the department.
- B. The service provider shall provide service locations so that there is a service location within 100 straight-line miles of the residence or employment site of any participant for service. Service locations may be provided through installation and service centers or through mobile service. A plan describing the service locations must be submitted to the department.

Subp. 2. **Security.** A service provider shall comply with all of the following security requirements:

A. Only authorized employees of the service provider, manufacturer, or department are permitted to observe the installation of the BAIID. Reasonable security measures must be taken to prevent other individuals from observing installation or obtaining access to installation materials.

B. The service provider shall not facilitate tampering, circumvention, or bypass of a BAIID. If the service provider is aware of a participant operating a vehicle that is not equipped with a BAIID, the service provider shall immediately notify the department.

C. A participant may not be employed by a manufacturer or service provider in a position that has access to installation instructions or materials.

Subp. 3. **Installation.** A service provider shall comply with the following installation service requirements:

A. Installation must be done in compliance with the installation instructions provided by the manufacturer and in accordance with accepted trade standards of the automotive repair industry.

B. The service provider shall inspect each vehicle before installing the BAIID. The inspection must include screening procedures to ensure the vehicle in which the BAIID is to be installed is in a mechanical and electrical condition that will allow the BAIID to meet the specifications in part 7409.3720. Conditions that the manufacturer has determined would prevent the BAIID from meeting the specifications of part 7409.3720, must be repaired before the BAIID is installed. The participant shall bear the costs of any repairs to the vehicle.

C. The service provider shall provide a certificate of installation to the participant and the department upon completing installation of the BAIID. The certificate must include the following information:

- (1) the participant's full name, address, date of birth, and telephone number;
- (2) the full names and dates of birth of all authorized persons other than the participant;
- (3) the vehicle's make, model, vehicle identification number, model year, license plate number, and state of registration;
- (4) the vehicle owner's full name and date of birth;
- (5) the serial number of the installed BAIID;
- (6) the date of installation;
- (7) the frequency of required service and monitoring; and
- (8) any additional information necessary to the administration of the pilot program requested by the department.

Subp. 4. **Orientation.** The service provider shall provide an orientation to the participant and any other licensed driver authorized to operate the vehicle. The orientation must include information on the proper use of the BAIID, service locations, and procedures for regular service and emergency situations.

Subp. 5. **Service requirements.** A service provider shall comply with the following ongoing service requirements:

A. The service provider shall service and monitor the installed BAIID a minimum of every 30 days after initial installation. If during the regular service appointment the service provider determines the BAIID to be defective, it must be repaired or replaced within 24 hours of that determination. If the participant fails to obtain regular service, the service provider shall immediately notify the department.

B. Each time the BAIID is serviced, the service provider shall review the data recorded under part 7409.3720, subpart 7, and provide a copy to the department within five business days of the service date. The service provider shall immediately notify the department by telephone or facsimile if any of the following is indicated:

- (1) tampering, circumvention, or bypass;
- (2) failure to provide a breath sample as required under part 7409.3720, subpart 2, item E; or
- (3) AC at or above the setpoint.

Immediate notification must be followed by written notice to the department within three days of the service.

C. The service provider must have and make known to all authorized persons a 24-hour toll-free telephone number for use in the event of questions or emergencies related to the BAIID.

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## Proposed Rules

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D. The service provider shall respond to an emergency report related to the BAIID within one business day of the report. If the service provider determines the emergency to be the result of a defective BAIID, the service provider shall repair or replace the BAIID within 48 hours of that determination.

Subp. 6. **BAIID removal.** A service provider shall comply with the following requirements for BAIID removal:

A. Upon removal of the BAIID, the service provider shall restore the vehicle to its original operating condition. All wires that were connected to the BAIID must be reconnected and insulated.

B. If the service provider removes the BAIID and installs a different BAIID, the service provider shall notify the department by mail of the serial number of the newly installed BAIID. If the BAIID is installed in a replacement vehicle, the service provider shall submit a new certificate of installation to the department.

C. If the service provider removes the BAIID for reasons other than service, the service provider shall immediately notify the department by telephone or facsimile. If removal occurs after the department's normal business hours, notification must be made at the earliest time possible. Telephone notification must be followed by written notification within three days of removal of the BAIID.

Subp. 7. **Program evaluation.** The service provider shall submit a report to the department every six months containing the following information:

A. all written complaints received from authorized persons;

B. all incidents of customer error in operating the BAIID;

C. all incidents of mechanical or electrical conditions of the motor vehicle that may have affected the ability of the BAIID to meet the requirements of part 7409.3720;

D. all incidents of failure of a BAIID to meet the requirements of part 7409.3720 and the cause for the failure; and

E. all incidents of attempts to tamper with, circumvent, or bypass the BAIID and whether the participant was able to operate the vehicle.

Subp. 8. **Cost determination.** The cost of installation, monthly service, and monitoring must not vary according to the location of the residence or employment site of the participant.

Subp. 9. **Inspection.** To ensure compliance with the specifications in this part, the service provider shall make available any service location and any BAIID at the service location for inspection by a representative of the department during the service provider's reported business hours.

### 7409.3760 LIABILITY.

Subpart 1. **Insurance coverage.** The manufacturer and each service provider shall maintain comprehensive general liability insurance in the amount of \$1,000,000 per person and \$3,000,000 per incident. All insurance policies must be endorsed to provide the department with 45 days prior written notice of cancellation, material change, or intent to lapse.

Subp. 2. **Indemnification.** The manufacturer and each service provider shall indemnify and hold harmless the department from any and all claims, demands, actions, and costs related to the BAIID program.

### 7409.3770 REVOCATION OF CERTIFICATION OR APPROVAL.

Subpart 1. **BAIID certification.** The department shall revoke the certification of the BAIID when it has sufficient cause to believe any of the following:

A. the BAIID model does not meet the requirements of part 7409.3720;

B. the manufacturer has changed the components, design, or installation and operation instructions in such a way that the requirements of part 7409.3720 are no longer met;

C. the manufacturer fails to maintain the liability insurance as required in part 7409.3760; or

D. the manufacturer fails to maintain a service provider as required in part 7409.3740, subpart 1.

Subp. 2. **Service provider.** The department shall revoke the approval of a designated service provider when it has sufficient cause to believe that the service provider is not meeting the requirements of part 7409.3750 or 7409.3760.

Subp. 3. **Review of denial or revocation of certification.** If a BAIID certification or a service provider approval is denied or revoked, the manufacturer or service provider may request review of the denial or revocation by the commissioner. The request must be in writing and made within 20 days of the notification of the denial or revocation. The commissioner shall issue a decision within 20 days of receiving a request for review. The commissioner's decision is a final agency action.

## Department of Revenue

### Proposed Permanent Rules Relating to Disclosure of Return Information in Investigation

#### Notice of Intent to Adopt a Rule Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Revenue 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*, section 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 270B.19.

All persons have until 4:30 p.m. on October 14, 1992, in which to submit comment in support of or in opposition to the proposed rules or any 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 rules until 4:30 p.m. on October 14, 1992. Any requests or comments must be received by the Department of Revenue no later than 4:30 p.m. on October 14, 1992. If 25 or more persons submit a written request for a public hearing by 4:30 p.m. on October 14, 1992, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and must identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed under *Minnesota Statutes*, sections 14.131 to 14.20.

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

Richard L. Walzer, Attorney  
Appeals, Legal Services, and  
Criminal Investigation Division  
10 River Park Plaza  
Mail Station 2220  
St. Paul, MN 55146-2220  
(612) 296-1902, Extension 134

The proposed rules may be modified if the modifications were supported by data and views submitted to the Department of Revenue and do not result in a substantial change in the proposed rules 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 rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Richard L. Walzer at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rule on small business. The adoption of the rule will not adversely affect small businesses.

*Minnesota Statutes*, section 14.11, subd. 1 does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules. *Minnesota Statutes*, section 14.11, subd. 2, does not apply because adoption of the rules will not impact agricultural land. *Minnesota Statutes*, section 16A.128, subds. 1a and 2a do not apply because the rules do not fix fees.

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 the form relates to legality. Any person may request notification of the date of submission of this material 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 rules, must submit the written request to Richard L. Walzer at the address and telephone number listed above.

Dated: 31 August 1992

Michael E. Boekhaus, Director  
Appeals, Legal Services, and  
Criminal Investigation Division

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## Proposed Rules

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### Rules as Proposed (all new material)

#### 8170.0100 DISCLOSURE IN INVESTIGATION; THIRD PARTY RETURNS.

Subpart 1. **Disclosure of return information.** Return information of a taxpayer can be disclosed to taxpayers under investigation if it is pertinent return information of a third party.

Subp. 2. **Definitions.** For purposes of *Minnesota Statutes*, section 270B.06, subdivision 2, and this part, the definitions in items A and B apply.

A. "Investigation" means an inquiry by the Department of Revenue into whether a taxpayer is liable for a state tax, or whether a taxpayer's return or refund claim is correct. The investigation is not concluded until the taxpayer is found not to be liable, the taxpayer's return or refund claim is accepted, the taxpayer's liability or deficiency is satisfied, or the taxpayer's appeal is finally determined.

B. "Pertinent return information of a third party" means information regarding the liability or refund of one taxpayer which affects another taxpayer's liability or refund.

Examples of such information are:

(1) where more than one taxpayer is or may be liable for the same tax types, periods, and amounts, information regarding personal liability under *Minnesota Statutes*, section 270.101, including whether a personal liability assessment has been made against a taxpayer; whether the assessment has been appealed administratively or judicially, and the status of the appeal; whether any amounts have been collected from the taxpayer, and whether the taxpayer is still being pursued for collection; and whether a settlement has been made with the taxpayer and for how much, unless the settlement agreement prohibits disclosure;

(2) information regarding the sales tax liability of a taxpayer which affects the use tax liability of another taxpayer;

(3) information used as a basis for a sales tax assessment against a taxpayer that is obtained from other taxpayers, such as statements from the purchasers of a vendor, or the sales tax history of a previous owner of the taxpayer's business;

(4) whether amounts claimed by an employer as a withholding tax refund have been claimed as a credit by the employees of the employer on their individual income tax returns;

(5) when taxpayers are married and filing separate individual income tax returns, whether either spouse itemized deductions, and if so, how much of the state income tax deduction had to be included in the Minnesota taxable income of either spouse;

(6) whether two or more taxpayers are claiming the same dependent on their individual income tax returns;

(7) information regarding items of expense, deduction, credit, or loss on the individual income tax return of a taxpayer which affects the amount of income that should be reported on the individual income tax return of another taxpayer;

(8) information from the corporate franchise tax return or tax records of a corporation needed to determine the correctness of a corporate franchise tax return of a unitary group with which the corporation is no longer affiliated;

(9) whether a taxpayer filing a property tax refund return has been claimed as a dependent on the individual income tax return of another taxpayer;

(10) information from the individual income tax returns of taxpayers who live in the home of a taxpayer filing a property tax refund return that is needed to determine household income;

(11) when a taxpayer's business accounts receivable have been acquired by a financial institution or other third party pursuant to an assignment, sale, security agreement, or liquidation, information from the sales tax returns of the taxpayer necessary for the financial institution or third party to determine the sales taxes it must collect and remit as it collects the accounts receivable;

(12) whether alimony claimed as a deduction on the individual income tax return of one ex-spouse has been reported as income on the individual income tax return of the other ex-spouse; and

(13) information regarding the allocation of the purchase price of a business among the various kinds of assets sold, when the method of allocation reported on the individual income tax return of the seller is different from the allocation reported on the individual income tax return of the purchaser.

## Department of Revenue

### Proposed Permanent Rules Relating to Sales and Use Tax; Utilities and Fuels

#### Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue intends to adopt the above entitled rule without a public

hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 270.06.

All persons have 30 days, through October 14, 1992, 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 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:

Joan Tujetsch, Attorney  
Appeals, Legal Services and  
Criminal Investigation Division  
10 River Park Plaza  
Mail Station 2220  
St. Paul, MN 55146-2220  
(612) 296-1902 Extension 125

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 Joan Tujetsch upon request.

The proposed rule will not result in the expenditure of public money by local public bodies or have a direct and substantial adverse impact on agricultural land or small businesses.

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:

Joan Tujetsch, Attorney  
Appeals, Legal Services and  
Criminal Investigation Division  
10 River Park Plaza  
Mail Station 2220  
St. Paul, MN 55146-2220  
(612) 296-1902 Extension 125

Dated: 14 September 1992

Dorothy A. McClung  
Commissioner of Revenue  
State of Minnesota

### Rules as Proposed

#### **8130.1100 UTILITIES AND RESIDENTIAL HEATING FUELS.**

Subpart 1. **General rule** Applicable law. Under *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (f), the furnishing for a consideration of electricity, gas, water that is not for residential use, or steam for use or consumption within Minnesota; ~~and local exchange telephone service and intrastate toll service (irrespective of whether such telephone service is obtained through regularly~~

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## Proposed Rules

organized telephone companies or through municipal corporations operating in a propriety capacity), constitute are taxable sales.

Minnesota Statutes, section 297A.25, subdivision 23, exempts sales of residential heating fuels from the sales and use tax in the manner shown in items A to C:

A. all fuel oil, coal, wood, steam, hot water, propane gas, and LP gas sold to residential customers for residential use;

B. natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat for the heating season; and

C. electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat for the heating season.

Subp. 2. **Exception for coin-operated telephone service Definitions.** Coin-operated telephone service is excluded from the definition of "sale." See Minnesota Statutes, section 297A.25, subdivision 4, paragraph (h), and other clauses under this section for exceptions. The definitions in items A to F apply to this part.

A. "Billing month," for natural gas or electricity, means the month the bill is dated regardless of when the service was rendered. Billing month means the meter reading date if there is no date on the bill. If a utility uses a system of cycle billing and 12 revenue months per year, the billing month may be the utility's revenue month. Each qualifying customer must receive six months of service exempt from taxation.

B. "Heating season" means the billing months of November, December, January, February, March, and April.

C. "Interruptible service credit" means a credit given by a utility company to a customer each month in exchange for the customer's agreement to shut down certain equipment during periods of high power usage.

D. "Primary source of residential heat" means the source which heats the largest square footage of floor space. When a user heats the same area with two sources of heat, each using different fuels, such as a home heated by wood which also has an electric heating system, then the primary source of residential heat is the source which supplies more heat than any other source for the largest period of time during the heating season. The examples in subitems (1) to (3) illustrate this situation.

(1) "B" heats a home with natural gas. "B" adds an addition to the home, which is heated with electricity. The largest square footage of the floor space is heated with gas. Since only the fuel which provides the primary source of heat for the entire residence qualifies for the exemption, both fuels cannot be exempt. Here, the electricity is taxable and the natural gas is exempt because the primary source of heat for the entire residence is natural gas.

(2) "B" heats a home with natural gas. "B" adds an addition to the home, which is heated with electricity. The square footage of the part of the home that is heated with natural gas is equal to the square footage of the addition that is heated with electricity. Although neither is the primary source of heat, in this situation "B" may choose one source of heat to be considered the primary source.

(3) "B" uses fuel oil to heat a home, but uses electricity to provide additional heat in the basement. The fuel oil would be exempt as all fuel oil delivered to a home is exempt. The electricity would be taxable since electricity is not the primary source of heat for the residence.

E. "Residential use" means use for general household purposes including cooking and water heating. Residential use does not include use in travel trailers, motor homes, or other recreational vehicles.

F. "Residential users" or "residential customers" includes persons billed for sales of residential heating fuel for single-family homes, duplexes, townhouse units, condominium units or buildings, apartment units or buildings, nursing homes, intermediate care facilities, mobile homes, fraternity or sorority houses, rooming houses, seasonal cabins, group homes, city and county jails, and state-operated correctional facilities and regional treatment centers.

Subp. 3. **Local exchange telephone service Exceptions.** Local exchange telephone service means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange operated to furnish subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge. Consequently, for purposes of Minnesota Statutes, section 297A.01, subdivision 3, paragraph (f), charges made by the vendor (the organization furnishing telephone service) for telephone service within the area stipulated on exchange boundary maps on file with the Minnesota Public Utilities Commission, constitutes sales. The following are exempt from sales and use tax:

A. Electricity, gas, steam, or water that is used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail. See part 8130.5500 and Minnesota Statutes, section 297A.25, subdivision 9.

B. For the billing months of the heating season, natural gas or electricity sold for residential use to customers who are metered and billed as residential users and who use natural gas or electricity for their primary source of residential heat. When gas or electricity is exempt as a heating fuel, all other gas or electricity used through the same meter shall also be exempt for the six-month heating season. See subpart 7 for tax treatment of residential customers on utility budget plans.

C. On a year-round basis, all fuel oil, coal, wood, steam, hot water, propane gas, and LP gas sold to residential customers for residential use. See subpart 7.

Subp. 4. **Intrastate telephone toll service** Charges included in sales price. Intrastate toll service is also subject to tax. Intrastate toll service is that which is furnished outside of the local exchange but within the state of Minnesota for an additional specified charge over and above the amount charged for the local exchange service. The following example is illustrative:

S, subscriber, pays \$6 per month for local exchange service. In addition, during a certain month, he pays \$20 for telephone service to other parts of Minnesota outside his local service area, and \$30 for long distance calls made to other states. The \$6 per month charge for local exchange service, and the \$20 paid for outside calls within Minnesota are both subject to tax. The charge of \$30 for long distance calls made to other states does not constitute a sale. All charges associated with furnishing utilities or making utility service available are considered part of the sales price and are subject to tax. If the utility service being provided is exempt from tax, the additional charges are also exempt. If the utility service being provided is partially exempt from tax, the additional charges will be exempt to the same extent the utility service is exempt. The following are examples of taxable charges that are included in the base on which the sales tax is charged. These charges are taxable even if minimal or no services are consumed:

- A. demand charge;
- B. fee for the safe drinking water testing program mandated by federal law, sometimes referred to as a connection fee;
- C. fixed or basic monthly charge;
- D. franchise fee;
- E. fuel clause adjustment;
- F. minimum charge;
- G. reconnection fee;
- H. service charge;
- I. service connection charge;
- J. standby fee; and
- K. surcharge.

Subp. 5. **Transitional sales** Credits determined before and after the sale. Corporations or organizations including municipal corporations furnishing electricity, gas, water, or steam to customers shall use the following criteria to determine the rate of tax applicable to the sale:

A. If the billing includes service for any date before November 1, 1971, the three percent rate is applicable. For example: A billing for service from October 30 through November 30 would carry the three percent rate.

B. If the billing includes only service on or after November 1, 1971, the four percent rate applies. For example: A billing for service from November 1 through November 30 would carry the four percent rate. Credits or dividends, such as capital contribution credits, interruptible service credits, and patronage dividends, are not included in the amount subject to sales tax if the credit and the amount of the credit are determined prior to the sale. These credits are included in the amount subject to sales tax if the credit or the amount of the credit is determined by events that happen after the sale has occurred. The examples in items A to C illustrate these situations.

A. An electric company and a manufacturer enter into an interruptible service agreement. Under this agreement, the manufacturer agrees to shut down certain machinery during peak electricity demand periods. In exchange, the electric company gives the customer a credit on each bill. This credit is a constant dollar amount and is based on the amount of kilowatts the manufacturer would conserve by shutting down the agreed upon machinery. The credit is given regardless of whether the manufacturer was required to shut down machinery during the period. Here, the credit is contracted for before the sale and should be subtracted from the sales price before sales tax is calculated.

B. A utility company and a manufacturer enter into an interruptible service agreement. Under this agreement, the manufacturer agrees to allow the utility company to control its water heaters during peak kilowatt demand periods and must use 500 kilowatts during the period. In exchange, the utility company gives the manufacture an \$8 rebate each month. If 500 kilowatts are not used during the period, no rebate is given. The rebate can only be used as a credit against the next bill, and if service is not continued the

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## Proposed Rules

credit is forfeited. In this case, whether a credit will be allowed is not determined until after the sale occurs. Therefore, the amount of the credit must be included in the sales price when calculating the amount of sales tax due.

C. The rate a utility cooperative charges its patrons includes a capital contribution in addition to the cost of providing services. The bylaws of the cooperative require that the excess of its revenue over its operating costs and other expenses are capital contributions paid by its patrons. At the end of each year, the amount of each patron's contribution is determined and credited to the patron's capital account. In this case, it is not determined until after the sale has occurred if a credit will be allowed, and if so, how much the credit will be. Therefore, the amount of the credit must be included in the sales price when calculating the amount of sales tax due.

### Subp. 6. Commercial and residential use.

A. If a building houses both residential quarters and commercial operations and contains one meter for the entire building for either water, electricity, or natural gas, the water, electricity, or natural gas supplied will be considered to be for residential use if less than 50 percent of the square footage of the building is used for commercial operations. If 50 percent or more of the building is used for commercial operations, the utility service will be considered to be for commercial use.

B. If a building which houses both residential quarters and commercial operations contains one central heating plant for the entire building, heating fuels supplied to or for the heating plant will be considered to be used for residential use if less than 50 percent of the square footage of the building is used for commercial operations. If 50 percent or more of the building is used for commercial operations, the heating fuels will be considered to be for commercial use.

### C. Examples of a residence that is also used as a commercial property:

(1) "B" owns a building with a restaurant on the first floor. "B" lives in an apartment on the second floor. There is one central heating plant for the entire building, and the primary source of heat is natural gas. The basement is not used as part of the commercial operation. Since less than 50 percent of the square footage is used for commercial purposes, the exemption applies.

(2) "C" owns and operates a resort. "C" has a home and four cabins which are heated by LP gas from one LP gas tank. The four cabins constitute a commercial business activity. There is only one common source of heat. The fuel supply to the common heating plant is not regarded as used for residential use if the square footage of the four cabins exceeds that of the home. In determining the square footage of commercial use, the seasonal use must also be considered. Assume "C" has a 1,600 square foot home and four rental units of 750 square feet each that are available for rent six months of the year. In computing the square footage for commercial use,  $4 \times (1/2 \text{ of } 750)$  or 1,500 is for commercial use; and as 1,600 square feet is for residential use, the heating fuel is exempt.

(3) "D" is a dentist who has a dental office in the home. "D's" home is heated with fuel oil. The fuel is exempt if the office occupies less than 50 percent of the square footage of the home.

(4) "B" owns a resort and uses LP gas to heat "B's" residence and five rental units from the same tank. At the end of the season, the rental units are closed down and only "B's" residence consumes LP gas. The rental units that are not operational during the winter should be included when determining if the customer is a residential user, but the seasonal use of the rental units is considered in determining if the commercial use exceeds 50 percent. See subitem (2).

(5) "C" owns a resort and rents out cabins on a weekly basis during the summer months. During the months of September through May, the cabins are rented as rental units on a monthly basis. The cabins are heated by propane fuel from one storage tank. Fuel used to heat the cabins rented on a monthly basis from September through May is exempt as residential heating fuel. However, fuel used during the summer months to operate cabins rented weekly is taxable. "B" may purchase the fuel exempt for residential heating, but must pay use tax on fuel during the summer months.

(6) "D" owns an apartment building that is heated with electricity. "D" is responsible for heating the entire building including all common areas. The residential heating fuel exemption would apply in this case. Apartment buildings and condominium units are considered to be residential. Therefore, sales of electricity used as a primary source of heat to owners of these buildings are exempt during the heating season. This is true even when the electricity is used by the building owner to heat common areas such as hallways and laundry rooms.

### Subp. 7. Residential heating fuels.

A. All fuel oil, coal, wood, steam, hot water, propane gas, and LP gas delivered to a residence is assumed to be used for residential heating and is exempt. All fuel oil, coal, wood, steam, hot water, propane gas, and LP gas that is not delivered to a residence is taxable. Heating fuels picked up by a customer are taxable unless the customer provides the retailer with a written statement indicating that the heating fuel is for residential heating purposes.

B. Sales of firewood are exempt as residential heating fuel whether delivered or picked up by the customer. Sales of firewood for recreational use, including camping and picnics, are taxable.

C. Sales of artificial fireplace logs are not exempt home heating fuel and are taxable.

D. Fuel used to heat fish houses is taxable since fish houses are not regarded as residences.

E. The monthly payments of residential customers on budget plans with a local utility will not change during the heating season. Sales tax is paid by the utility on actual consumption, not the monthly payments. Therefore, while residential customers will not pay sales tax on their heating fuel during the heating season, their monthly payments will remain the same.

Subp. 8. Sales of utility services by local governments to themselves. Effective June 1, 1992, items A and B apply when a local government sells utility services to other departments or divisions within the same unit of local government.

A. A utility that is operated by a local government as a separate corporation is considered a separate legal entity or person. Therefore, the sale of utility services by this entity to other departments within the local government are taxable sales.

B. A utility that is operated by a local government, but that is not separately incorporated, should not charge sales tax on sales of utility services to other departments or divisions within the same unit of local government. The transfer is merely a book transfer within one entity and no taxable sale has occurred.

## Adopted Rules

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

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

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

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

## Housing Finance Agency

### Adopted Permanent Rules Relating to Special Needs for Homeless Persons Program

The rules proposed and published at *State Register*, Volume 16, Number 48, pages 2509-2512, May 26, 1992 (16 SR 2509), are adopted as proposed.

## Housing Finance Agency

### Adopted Permanent Rules Relating to Special Needs Housing for Adults with Chronic Chemical Dependency

The rules proposed and published at *State Register*, Volume 16, Number 48, pages 2508-2509, May 26, 1992 (16 SR 2508), are adopted as proposed.

## Housing Finance Agency

### Adopted Permanent Rules Relating to Training and Housing Program for Homeless Adults Demonstration Program

The rules proposed and published at *State Register*, Volume 16, Number 48, pages 2506-2508, May 26, 1992 (16 SR 2506), are adopted as proposed.

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## Adopted Rules

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### Department of Transportation

#### Adopted Permanent Rules Relating to the Port Development Assistance Program

The rules proposed and published at *State Register*, Volume 16, Number 43, pages 2309-2314, April 20, 1992 (16 SR 2309), are adopted with the following modifications:

##### Rules as Adopted

##### 8895.0600 TYPES OF ASSISTANCE PROJECTS; ELIGIBILITY; FUNDING.

Subp. 2. **Types of assistance; eligibility.** The commissioner shall determine under items A and B the type of assistance for which a project will be eligible.

B. To qualify for a grant ~~or a loan~~ or a combination of both a grant and loan, the project must satisfy at least one of the conditions in item A, does not produce an increase in revenue that could be used to finance the project, and either:

## Executive Orders

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### Executive Department

#### Emergency Executive Order 92-12: Providing Assistance to Northland Chapter of the American Red Cross Following Hurricane Andrew

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

WHEREAS, Hurricane Andrew has inflicted enormous destruction in Florida, Louisiana, and other southern states; and

WHEREAS, the Northland Chapter of the American Red Cross has requested assistance in transporting emergency relief supplies from collection points in Duluth and surrounding areas to the Duluth Air Base for distribution to the victims of Hurricane Andrew;

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to active duty on or after September 1, 1992, in the service of the State, such elements and equipment of the military forces of the State as required and for such period of time as necessary to assist and support the American Red Cross in providing assistance to the victims of Hurricane Andrew. The assistance shall include collecting and transporting emergency relief supplies to the Duluth Air Base.

2. The cost of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in *Minnesota Statutes* 1990, Sections 192.49, subd. 1; 192.51, and 192.52.

Pursuant to *Minnesota Statutes* 1990, Section 4.035, subd. 2, this Order shall be effective September 2, 1992, and shall remain in effect until such date as elements of the military forces of the State are no longer required.

IN TESTIMONY WHEREOF, I have set my hand this first day of September, 1992.

Filed According to Law:

Joan Anderson Growe  
Secretary of State

Dated: 2 September 1992

  
Arne H. Carlson  
Governor

# Official Notices

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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.

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## Ethical Practices Board

### Advisory Opinion Requests #125 re: Campaign Expenditure Limits

Issued 8-31-92 to Thomas J. Bieter, Esq.—SUMMARY—125. The election year campaign expenditure limit under *Minnesota Statutes* §§ 10A.25 and 10A.255 is applicable to a candidate with a Public Subsidy Agreement pursuant to *Minnesota Statutes* § 10A.322 in effect during the period from January 1 of an election year for the office sought or held and until filings open in that election year for that office. This limit will be applied prospectively only from the date of this opinion.

A candidate who had a Public Subsidy Agreement in effect that expired when filings opened in 1992 and who signs a Public Subsidy Agreement after filings opened that is rescinded before September 1, 1992, has no limit on total campaign expenditures during calendar year 1992.

The full text of the opinion is available upon request from the Ethical Practices Board, 1st Floor South, Centennial Building, 658 Cedar Street, St. Paul, MN 55101-2520; (612) 296-5148.

## Department of Health

### Proposed Permanent Rules Relating to Infants; Newborn Metabolic Error Test Extended Comment Period

On July 20, 1992, the *State Register* contained a Notice of Intent to Adopt the above referenced Rules. The related direct mailing to interested persons on July 16, contained an error in the caption indicating that the Rules were to be amended to Part 4615.0700. The full parts to be amended are 4615.0300 to 4615.0760.

Accordingly, all persons have an additional 30 days or until 4:30 p.m. on October 15, 1992 in which to submit comment in support of or in opposition to the proposed Rules or any part or subpart of the Rules.

A full set of the proposed Rules and information concerning the process for their adoption was contained in the *State Register* on July 20, 1992.

## Minnesota Department of Health

### Notice of Meeting

In conjunction with the 1992 health care reform legislation (formerly HealthRight), there will be an initial meeting of the Antitrust Rules Advisory Panel at 8:00 a.m. on Thursday, September 17, 1992. The meeting will be held at the Veteran's Service Building, Room D, 20 West 12th Street, St. Paul, Minnesota 55155.

## Department of Health

### Notice of Completed Application and Notice of and Order for Hearing In the Matter of the License Application of Stevens County Ambulance Service, Morris, Minnesota

PLEASE TAKE NOTICE that the Commissioner of Health (hereinafter "Commissioner") has received a completed application from Stevens County Ambulance Service, Morris, Minnesota for a Specialized Advanced Ambulance Service.

IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* §§ 14.57-14.69 and *Minnesota Statutes* § 144.802 a public hearing will be held on October 21, 1992 at Stevens County Ambulance Office, 209 South Hwy. 9, Morris.

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## Official Notices

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Minnesota, commencing at 7:00 p.m. If you have an interest in this matter you are hereby urged to attend the public hearing. Failure to do so may prejudice your rights in this and any subsequent proceedings in this matter.

1. The purpose of the hearing is to determine whether the application from this ambulance service should be granted based upon the criteria set forth in *Minnesota Statutes* § 144.802, subd. 3(g).

2. This proceeding has been initiated pursuant to and will be controlled in all aspects by *Minnesota Statutes* §§ 14.801-14.8093, *Minnesota Statutes* §§ 14.57-14.69, and Rules for Contested Cases of the Office of Administrative Hearings. *Minnesota Rules* 1400.5100-1400.8402. Copies of the rules and statutes may be obtained for a fee from the Department of Administration, Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, telephone: (612) 297-3000.

3. Jan Craig Nelson, Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone: 612/341-7615, will preside as administrative law judge at the hearing, and will make a written recommendation on this application. After the hearing, the record and the administrative law judge's recommendation will be forwarded to the Commissioner to make the final determination in the matter.

4. Any person wishing to intervene as a party must submit a petition to do so under *Minnesota Rules* 1400.6200 on or before October 5, 1992. This petition must be submitted to the administrative law judge and shall be served upon all existing parties and the Commissioner. The petition must show how the contested case affects the petitioner's legal rights, duties or privileges and shall state the grounds and purposes for which intervention is sought and indicate petitioner's statutory right to intervene if one exists.

5. In addition to or in place of participating at the hearing, any person may also submit written recommendations for the disposition of the application. These recommendations must be mailed to the administrative law judge on or before October 14, 1992.

6. Any subpoena needed to compel the attendance of witnesses or the production of documents may be obtained pursuant to *Minnesota Rules* 1400.7000.

7. At the hearing the applicant will present its evidence showing that a license should be granted and that all persons will be given an opportunity to cross-examine witnesses, to be heard orally, to present witnesses, and to submit written data or statements. All persons are encouraged to participate in the hearing and are requested to bring to the hearing all documents, records, and witnesses needed to support their position. It is not necessary to intervene as a party in order to participate in the hearing.

8. Please be advised that if nonpublic data is admitted into evidence, it may become public data unless an objection is made and relief is requested under *Minnesota Statutes* § 14.60, subd. 2.

9. You are hereby informed that you may choose to be represented by an attorney in these proceedings, may represent yourself, or be represented by a person of your choice if not otherwise prohibited as the unauthorized practice of law.

10. A Notice of Appearance must be filed with the administrative law judge identified above within 20 days following receipt of the Notice by any person intending to appear at the hearing as a party.

11. In accordance with the provisions of *Minnesota Statutes* § 14.61, the final decision of the Commissioner in this proceeding will not be made until the Report of the Administrative Law Judge has been made available to the parties in this proceeding for at least 10 days. Any party adversely affected by the Report of the Administrative Law Judge has the right to file exceptions and present arguments to the Commissioner. Any exceptions or arguments must be submitted in writing and filed with the Commissioner of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, within 10 days of the receipt of the Administrative Law Judge's Report.

## Department of Human Services

### Audits Division

### Notice of Disproportionate Population Adjustment

The purpose of this notice is to provide information concerning the disproportionate population adjustment (DPA) under the Medical Assistance (MA) and General Assistance Medical Care (GAMC) programs. The listed DPA factors are effective for admissions occurring from October 1, 1992 through the implementation date of the upgrade to the Medicaid Management Information System. This is currently expected to be July 1, 1993. The DPA is based on the MA inpatient days utilization rate of a hospital compared to the mean utilization rate of all non-state owned hospitals.

*Minnesota Statutes*, section 256.969, subdivision 9 was amended during the 1992 session to provide for increased DPA payments and to make more hospitals eligible for a DPA under MA. The data used to calculate a hospital's DPA has not changed from the information that is presently used. However, hospitals that have closed or merged have been removed or combined and thus, the mean utilization and standard deviation have changed. As a result, the listed DPA factors differ slightly from those included in Bulletin #92-21A.

*Minnesota Statutes* require hospitals to meet federal requirements in order to qualify for a DPA. Under direction from the federal Health Care Financing Administration, section 1923(d) of the Social Security Act must be met at the time that an admission occurs in order for a DPA payment to be made. Basically, section 1923(d) requires the hospital to meet criteria regarding the provision of obstetric services or specific exemptions. Bulletin #92-16B has been sent to all DPA eligible hospitals to request information concerning qualification under the criteria. Therefore, the listed hospitals may not all qualify for DPA payments under MA. The federal requirements do not affect DPA payments under GAMC.

The MA DPA is calculated as the difference between a hospital's utilization rate and the mean utilization rate. The DPA for a hospital with a utilization rate that is above the mean plus one standard deviation is increased by 10 percent. The MA inpatient total rate of each hospital is increased by the indicated percentage.

The GAMC DPA is calculated as the difference between the hospital's utilization rate and the mean plus one standard deviation utilization rate. The inpatient operating rate of each hospital is increased by the indicated percentage.

Effective October 1, federal legislation has limited the DPA to a national pool of monies based on historical payments and growth factors. The allocation that is available to Minnesota is unknown at this time. *Minnesota Statutes* provide for a rateable decrease in the DPA if the estimated payments to all hospitals are expected to exceed the pool. In the event that a reduction is necessary, hospitals will be notified of the decrease.

Questions or comments may be directed to

Paul Olson  
Hospital Unit  
Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55155-3836  
(612) 296-5620

DISPROPORTIONATE POPULATION ADJUSTMENT DATA		Arithmetic Mean	0.0723
MN and LTA Hospitals		Std Dev	0.0515
October 1, 1992		Mean + Std Dev	0.1238
PID	NAME	MA DPA %	GAMC DPA %
0101406	Ely/Bloomenson, Ely	0.0200	
0101155	Fosston Municipal	0.0600	
0100832	Louis Weiner, Marshall	0.1400	
0101756	Winona Community Memorial	0.2200	
0101144	Pipestone County	0.2700	
0101177	Glacial Ridge, Glenwood	0.3100	
0101188	Western Pope County Hospital, Starbuck	0.3500	
0100923	Meeker County, Litchfield	0.3700	
0100162	Mercy, Moose Lake	0.5700	
0100719	Karlstad Memorial	0.6200	
0100344	United Hospital, Blue Earth	0.7100	
0100413	St. John's, Red Wing	0.8100	
0100978	St. Gabriel's, Little Falls	0.8800	
0100708	Rice Memorial, Willmar	1.1800	
0100843	Tracy Municipal	1.4600	
0101563	St. Michael's, Sauk Centre	1.7000	
0100548	North Memorial Med Center, Minneapolis	1.7100	
0100093	St. Joseph's, Mankato	1.7500	
0101202	United Hospital, St. Paul	1.8900	

# Official Notices

## DISPROPORTIONATE POPULATION ADJUSTMENT DATA

MN and LTA Hospitals

October 1, 1992

PID	NAME	Arithmetic Mean	0.0723
		Std Dev	0.0515
		Mean + Std Dev	0.1238
		MA	GAMC
		DPA	DPA
		%	%
010021X	St. Ansgar, Moorhead	2.1400	
0101585	Stevens County, Morris	2.2900	
0101042	Olmsted Community, Rochester	2.3000	
0101461	Virginia Municipal	2.3000	
0100526	Metro Medical Center, Minneapolis	2.3400	
0101472	White Community, Aurora	2.3800	
0100220	Clearwater Memorial, Bagley	2.4400	
0100639	Community, Deer River	2.5500	
0100016	Aitkin Community	2.5900	
0101450	St. Mary's, Duluth	2.7800	
0100650	Northern Itasca, Bigfork	3.0800	
0100887	Mahnomen County and Village	3.0900	
0100628	Cambridge Memorial Hospital	3.1400	
0100989	St. Olaf, Austin	3.3000	
010064X	Itasca Memorial, Grand Rapids	3.5200	
0100275	Cuyuna Range, Crosby	3.7900	
0101643	United District, Staples	3.8700	
0101836	Superior Memorial	4.0200	
0102192	St. Croix Valley	4.0600	
0100606	St. Joseph's, Park Rapids	4.0800	
0101133	Pine County, Sandstone	4.1100	
0100297	St. Joseph's, Brainerd	4.1200	
0100151	Cloquet Community	4.2500	
0101020	Worthington Regional	4.3400	
0100945	Community Mercy, Onamia	4.4000	
0101687	Tri-County, Wadena	4.4500	
0100264	Windom Hospital	4.5100	
0101279	St. Joseph's, St. Paul	4.5800	
010144X	St. Luke's, Duluth	4.7500	
0100424	Zumbrota Community	4.8800	
0100694	Kanabec County, Mora	4.9900	
0101778	Monticello/Big Lake	5.8900	0.2000
0101916	United, Grand Forks	6.5100	0.7700
0100049	St. Mary's, Detroit Lakes	6.5800	0.8300
0100027	Mercy Hospital, Coon Rapids	7.4900	1.6600
0100468	Riverside Medical Center, Minneapolis	7.5200	1.6900
010005X	Bemidji Hospital	8.2000	2.3000

DISPROPORTIONATE POPULATION ADJUSTMENT DATA		Arithmetic Mean	0.0723
MN and LTA Hospitals		Std Dev	0.0515
October 1, 1992		Mean + Std Dev	0.1238
PID	NAME	MA DPA %	GAMC DPA %
0100730	International Falls Memorial	9.9000	3.8500
0101869	St. Francis, La Crosse	10.0800	4.0100
0101224	Midway, Mounds Park, St. Paul	10.0900	4.0200
0101199	Bethesda Lutheran, St. Paul	11.1900	5.0200
0101439	Miller/Dwan, Duluth	11.3900	5.2000
0100570	University of Minnesota, Minneapolis	11.6200	5.4100
0101428	Central Mesabi, Hibbing	11.6900	5.4800
0101552	St. Cloud	11.7800	5.5600
0101290	St. Paul Ramsey	13.0100	6.6800
0101825	Minneapolis Children's Medical Center	13.7300	7.3300
0102443	River Hills, Prescott	14.4100	7.9500
0101213	St. Paul Children's	18.1400	11.3400
0100490	Hennepin County Medical Center, Minneapolis	19.4400	12.5200
0102002	Gillette Children's, St. Paul	21.8400	14.7000

## Department of Jobs and Training

### Division of Rehabilitation Services

#### Notice of Availability of Funds for Vocational Services

The Minnesota Department of Jobs and Training-Division of Rehabilitation Services is requesting proposals for the development of coordinated community based employability services for adults with serious and persistent mental illness. Granting of DJT-DRS funds is authorized via *Minnesota Statutes* 268A.01.

Interested Parties must submit an application describing the proposed program. Proposed programs should be designed to:

- develop innovative services to provide integrated community based employment for persons with serious and persistent mental illness.
- improve the quality and permanence of job placements.
- provide individualized ongoing supports to employed consumers with mental illness.
- illustrate effective linkages between mental health employability services, the county, DRS and Community Support Program Services.
  - facilitate consumer choice and preferences regarding work.
  - provide for consumer involvement in the planning, development and delivery of employment services.
  - evaluate the effectiveness of the program in improving employment opportunities for persons with mental illness.

Applications must have as their focus collaboration between multiple agencies including, but not limited to: Division of Rehabilitation Services Field Offices, Rehabilitation Facilities, Local Counties, and Local Mental Health Community Support Programs.

It is anticipated that a total of \$250,000 will be available for these projects, with individual grants ranging from \$25,000-\$60,000. Grants will be awarded initially for one year and are expected to begin 01/01/93. Application for continuation of the grants will be announced at a later date depending on the availability of project funds.

Applications in the form of a request for proposals are available from: Claire Courtney, Rehabilitation Program Specialist, Division of Rehabilitation Services, 390 North Robert St., St. Paul, MN 55101. Phone (612) 296-0219 FAX (612) 297-5159.

## Official Notices

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Completed proposals must be received by 4:30 p.m. on October 30, 1992. Mail or deliver proposals to the DRS Administrative Office, 390 North Robert St., St. Paul, MN 55101.

### Labor Standards Division

#### Notice of Correction to Prevailing Wage Rates

Prevailing wage rates certified July 20, 1992 for labor class code 102 LABORER, SKILLED (ASST CRFT JRNY) in Redwood county for Highway/Heavy has been corrected.

Copies of the corrected certification may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306, or calling (612) 296-6452.

John B. Lennes, Jr.  
Commissioner

### Minnesota Comprehensive Health Association

#### Notice of Meeting of the Ad Hoc Work Group on MCHA Premiums

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association (MCHA), Ad Hoc Work Group on MCHA Premiums will be held at 8:00 a.m. on Monday, September 21, 1992 at Prudential Insurance Company of America, 3701 South Wayzata Boulevard, Minneapolis, Minnesota, in the 8th floor board room.

For additional information please call Lynn Gruber at (612) 593-9609.

### Minnesota State Retirement System

#### Board of Directors, Regular Meeting

The regular meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, September 18, 1992 at 9:00 a.m. in the office of the System, 175 W. Lafayette Frontage Rd., St. Paul, Minnesota.

### Department of Natural Resources

#### Division of Minerals

#### Notice of Intent to Solicit Outside Opinions Regarding Proposed Rules Concerning the Leasing of State-Owned Lands for the Mining of Selected Industrial Minerals

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Natural Resources is seeking information and opinions from sources outside the agency in preparing to propose the adoption of rules regarding the leasing of state-owned lands for selected industrial minerals within the state of Minnesota. The industrial minerals covered by these leasing rules would include: diamonds, dimension stone, gemstones, kaolin, silica sand, and slate. Authority to adopt such rules is conferred upon the Commissioner of Natural Resources by *Minnesota Statutes*, Section 93.08-93.12 and 93.25, subject to the approval of the State Executive Council.

The Minnesota Department of Natural Resources requests information and comments concerning the subject matter of this area of rulemaking. A draft copy of the state leasing rules for selected industrial minerals is available for review and is available from the Division of Minerals. Written statements should be addressed to:

DEPARTMENT OF NATURAL RESOURCES—DIVISION OF MINERALS  
Kathy A. Lewis  
Mineral Leasing Supervisor  
Division of Minerals  
500 Lafayette Road  
St. Paul, MN 55155-4045

Oral comments will be accepted between 8:00 and 4:30 p.m. by telephone at 612-296-4807 or in person at the above address.

Comments will be accepted until December 1, 1992. All written material submitted will become part of the written record.  
Dated: 14 September 1992

Rodney W. Sando  
Commissioner of Natural Resources  
William C. Brice, Director  
Division of Minerals

## Department of Revenue

### Appeals, Legal Services, and Criminal Investigation Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Sales and Use Tax Rules Governing Fundraising Exemptions

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing fundraising exemptions to sales and use tax. The adoption of the rule is authorized by *Minnesota Statutes*, section 270.06, which permits the commissioner of revenue to make, publish, and distribute rules for the administration and enforcement of state tax laws.

The State Department of Revenue requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Joan Tujetsch  
Department of Revenue  
Appeals, Legal Services, and  
Criminal Investigation Division  
10 River Park Plaza  
Mail Station 2220  
St. Paul, MN 55146-2220

Oral statements will be received during regular business hours over the telephone at (612) 296-1902 Extension 125, and in person at the above address.

All statements of information and opinions shall be accepted until October 14, 1992. Any written material received by the State Department of Revenue 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: 14 September 1992

Joan Tujetsch  
Attorney

## Department of Transportation

### Petition of the County of Clay for a Variance from State Aid Requirements for Bridge Width

**NOTICE IS HEREBY GIVEN** that the County Board of the County of Clay has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed bridge rehabilitation project on CSAH 36 over the Red River of the North.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 24 foot wide bridge over the Red River of the North (Bridge No. 6646); instead of the required minimum of 28 feet; to remain in place.

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

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

Dated: 3 September 1992

Edwin H. Cohoon  
Deputy Commissioner

## Department of Transportation

### Petition of the County of Hennepin for a Variance from State Aid Requirements for Street Width

NOTICE IS HEREBY GIVEN that the County Board of the County of Hennepin has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on CSAH 37 (4th Street SE) between 13th Avenue SE and 15th Avenue SE in the City of Minneapolis.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9935 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a one way street width of 49 feet; three 11 foot traffic lanes with 8 foot parking lanes on both sides; instead of the required minimum of 53 feet.

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

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

Dated: 3 September 1992

Edwin H. Cohoon  
Deputy Commissioner

## Department of Transportation

### Petition of the City of Albert Lea for a Variance from Minimum State Standards for Street Width

NOTICE IS HEREBY GIVEN that the City Council of the City of Albert Lea made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to MSAS 101 (Fountain Street) between Seventh Avenue and Vine Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9935 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 40 feet with parking on both sides; instead of the required minimum of 42 feet.

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

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

Dated: 3 September 1992

Edwin H. Cohoon  
Deputy Commissioner

## Department of Transportation

### Petition of the City of St. Louis Park for a Variance from Minimum State Aid Standards for Right of Way Width

NOTICE IS HEREBY GIVEN that the City Council of the City of St. Louis Park has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project, SAP 163-279-05, on West 26th Street between Monterey Avenue and France Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2500 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a right of way width 40 feet between Monterey Avenue and Lynn Avenue and 50 feet between Lynn Avenue and France Avenue instead of the required minimum of 60 feet.

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

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

Dated: 3 September 1992

Edwin H. Cohoon  
Deputy Commissioner

## Department of Transportation

### Petition of the City of Minneapolis for a Variance from State Aid Administration Requirements for Release of Construction Funds

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Minneapolis has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 from requirements for release of 95% of municipal state aid construction funds for force account work.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.1500 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the release of 95% of the state aid eligible cost of the projects as soon as the Force Account Agreement has been approved; instead of upon receipt of partial or final estimates based on work completed.

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

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

Dated: 3 September 1992

Edwin H. Cohoon  
Deputy Commissioner

## Department of Transportation

### State Aid Variance Committee Meeting Notice(s)

**NOTICE IS HEREBY GIVEN** that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Thursday, October 1, 1992, at 10:00 a.m. in Room 346 of the State Office Building, 100 Constitution Avenue, St. Paul, MN 55155.

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

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

The agenda will be limited to these questions:

1. Petition of the County of Hennepin for a variance from minimum standards as they apply to a proposed reconstruction project on CSAH 37 (4th Street SE) between 13th Avenue SE and 15th Avenue SE in the City of Minneapolis so as to permit a one way street width of 49 feet; three 11 foot traffic lanes with 8 foot parking lanes on both sides; instead of the required minimum of 53 feet.

2. Petition of the County of Clay for a variance from minimum standards as they apply to a proposed bridge rehabilitation project on CSAH 36 so as to permit a 24 foot wide bridge over the Red River of the North (Bridge No. 6646); instead of the required minimum of 28 feet; to remain in place.

3. Petition of the City of Albert Lea for a variance from minimum standards as they apply to MSAS 101 (Fountain Street) between Seventh Avenue and Vine Avenue so as to permit a street width of 40 feet with parking on both sides; instead of the required minimum of 42 feet.

4. Petition of the City of St. Louis Park for a variance from minimum standards as they apply to a proposed reconstruction project, SAP 163-279-05, on West 26th Street between Monterey Avenue and France Avenue so as to permit a right of way width 40 feet between Monterey Avenue and Lynn Avenue and 50 feet between Lynn Avenue and France Avenue instead of the required minimum of 60 feet.

5. Petition of the City of Minneapolis for a variance from rule so as to permit the release of 95% of the state aid eligible cost of the projects as soon as the Force Account Agreement has been approved; instead of upon receipt of partial or final estimates based on work completed.

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

10:00 a.m. County of Hennepin  
10:20 a.m. County of Clay

## Official Notices

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10:40 a.m. City of Albert Lea  
11:00 a.m. City of St. Louis Park  
11:30 a.m. City of Minneapolis

Dated: 3 September 1992

Edwin H. Cohoon  
Deputy Commissioner  
Minnesota Department of Transportation

## Professional, Technical & Consulting Contracts

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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.

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### Minnesota Department of Education

#### Notice of Request for Proposal for Environmental Education Contractor

The Minnesota Department of Education, Environmental Education Unit is publishing notice that the contract listed below is available and will be awarded on October 6, 1992, through June 30, 1993.

The Environmental Education unit is seeking a contractor to assist in the processing of the State Environmental Education Plan, to liaison with the Office of Environmental Education Board, the Minnesota Department of Education and Environmental Education Stakeholders, and to work with model curriculum development for K-12 public schools and Environmental Education Research and Development sites.

It is anticipated that the cost will not exceed \$28,000 for professional services and expenses.

Letters of application and personal resumés should be submitted no later than 4:00 p.m. September 30, 1992 to:

Minnesota Department of Education  
Environmental Education  
624 Capitol Square Bldg.  
550 Cedar Street  
St. Paul, MN 55101  
ATTN: M.S. Pfeifer

### Department of Public Service

#### Notice of Request for Proposals for a Commercial Building Lighting Standards Project

The Department of Public Service is seeking proposals from qualified firms and individuals to identify needs and to develop and conduct an education project for commercial building lighting standards implementation. The target audiences for the project are building officials and inspectors, electrical contractors and lighting designers.

The Request for Proposals is available by calling or writing Bruce D. Nelson, Department of Public Service, 150 E. Kellogg Blvd. Suite 790, St. Paul, MN 55101, telephone (612) 297-2313; or Rick Korinek (same address), telephone (612) 296-9097.

Proposals must be received not later than September 29, 1992.

Details concerning submission requirements are included in the Request for Proposals.

# Non-State Public Contracts

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

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

## Minnesota Historical Society

### Notice of Request for Bids for Roof System at Burbank-Livingston-Griggs House, 432 Summit Avenue, St. Paul, MN

The Minnesota Historical Society is seeking bids from qualified firms to provide all materials, labor and equipment for the complete installation of a roof system at its Burbank-Livingston-Griggs House in St. Paul, pursuant to Plans and Specifications which will be provided by the Society.

The Request for Bids is available by calling or writing Gary W. Goldsmith, Contracting Officer, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102. Telephone (612) 297-5863.

There is a mandatory pre-bid meeting at the project site at 9:00 a.m. September 17, 1992. Bids must be received not later than September 24, 1992 at 2:00 p.m.

Details concerning submission requirements are included in the Request for Bids.

# 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 CODE KEY

A = Sealed Bid	G = \$5,000-\$15,000 Estimated Dollar Value	J = Targeted Vendors Only
B = Write for Price	H = \$15,000-\$50,000 Sealed Bid	K = Local Service Needed
C = Request for Proposal	I = \$50,000 and Over Sealed Bid/Human Rights Compliance Required	L = No Substitute
D = Request for Information		M = Installation Needed
E = \$0-\$1,500 Estimated Dollar Value		N = Pre-Bid Conference
F = \$1,500-\$5,000 Estimated Dollar Value		O = Insurance or Bonding Required

## State Contracts and Advertised Bids

**Commodity:** Dental laboratory services  
**Contact:** Roger Lindgren 612-296-8163  
**Bid due date at 2pm:** September 24  
**Agency:** Minnesota Correctional Facility  
**Deliver to:** Stillwater, Oak Park Heights, Lino Lakes  
**Requisition #:** Price contract

**Commodity:** B F—Miscellaneous/surgical equipment  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 18  
**Agency:** Building Construction Division  
**Deliver to:** Silver Bay  
**Requisition #:** B 02305-33825

**Commodity:** B F L—Ranger solo power chair  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 18  
**Agency:** Minnesota Department of Jobs & Training  
**Deliver to:** Various places  
**Requisition #:** B 21604-87822

**Commodity:** A H M—Football scoreboard & installation  
**Contact:** Linda Parkos 612-296-3725  
**Bid due date at 2pm:** September 16  
**Agency:** Moorhead State University  
**Deliver to:** Various places  
**Requisition #:** B 26072-03910-1

**Commodity:** B F K—Poster printer  
**Contact:** Jack Bauer 612-296-2621  
**Bid due date at 4:30pm:** September 23  
**Agency:** Normandale Community College  
**Deliver to:** Bloomington  
**Requisition #:** B 27156-10995

**Commodity:** B F—Kangaroo pumps  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 18  
**Agency:** Building Construction Division  
**Deliver to:** Silver Bay  
**Requisition #:** B 02305-33868

**Commodity:** B F—Move of tourism  
**Contact:** Joan Breisler 612-296-9071  
**Bid due date at 4:30pm:** September 18  
**Agency:** Trade & Economic Development/Fiscal Services  
**Deliver to:** St. Paul  
**Requisition #:** B 02310-33864

**Commodity:** B G L M—Weight training equipment  
**Contact:** Linda Parkos 612-296-3725  
**Bid due date at 4:30pm:** September 16  
**Agency:** Minnesota Correctional Facility  
**Deliver to:** Oak Park Heights  
**Requisition #:** B 78630-11032-1

**Commodity:** B G—Physical therapy equipment  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 21  
**Agency:** Building Construction Division  
**Deliver to:** Silver Bay  
**Requisition #:** B 02305-33895

**Commodity:** B F—Treated lumber  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Facilities Management Office  
**Deliver to:** Little Falls  
**Requisition #:** B 01000-07163

**Commodity:** B F—Rear projection mirror  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Building Construction Division  
**Deliver to:** Willmar  
**Requisition #:** B 02310-33867

**Commodity:** B F—Projection screen  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** St. Cloud State University  
**Deliver to:** St. Cloud  
**Requisition #:** B 26073-24132

**Commodity:** A H—Audio video equipment  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 2pm:** September 21  
**Agency:** Metropolitan State University  
**Deliver to:** Various places  
**Requisition #:** B 26176-03495

**Commodity:** B E—Stereo equipment  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Metropolitan State University  
**Deliver to:** Various places  
**Requisition #:** B 26176-03497

**Commodity:** B F—Basswood  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Fergus Falls Regional Treatment Center  
**Deliver to:** Fergus Falls  
**Requisition #:** B 55101-03144

**Commodity:** B F—Spirotech P F T system  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 18  
**Agency:** Minnesota Department of Health  
**Deliver to:** Minneapolis  
**Requisition #:** B 12800-12481

**Commodity:** B F—Spectrometer ohaus balances  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Building Construction Division  
**Deliver to:** Cloquet  
**Requisition #:** B 02310-33817

**Commodity:** Portable turbidmeter  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Minnesota Department of Health  
**Deliver to:** Minneapolis  
**Requisition #:** B 12200-12073

**Commodity:** B F M—Window installation  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 22  
**Agency:** Southwest State University  
**Deliver to:** Marshall  
**Requisition #:** B 26175-03244

**Commodity:** B G—Camcorders, slide projectors  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Metropolitan State University  
**Deliver to:** Various places  
**Requisition #:** B 26176-03496

**Commodity:** B F—Microscopes  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** North Hennepin Community College  
**Deliver to:** Brooklyn Park  
**Requisition #:** B 27153-21461

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## State Contracts and Advertised Bids

**Commodity:** B G—EKG instrument  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Faribault Regional Center  
**Deliver to:** Faribault  
**Requisition #:** B 55303-93417

**Commodity:** B F—Portable radios  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Thistledeew Youth Camp  
**Deliver to:** Togo  
**Requisition #:** B 78780-06004

**Commodity:** B F—PVC handholes  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Fort Snelling  
**Requisition #:** B 79000-31811

**Commodity:** B F—Microwave ovens  
**Contact:** Joan Breisler 612-296-9071  
**Bid due date at 4:30pm:** September 21  
**Agency:** Normandale Community College  
**Deliver to:** Bloomington  
**Requisition #:** B 99997-10996

**Commodity:** B G K M—Copier purchase—rebid  
**Contact:** Jack Bauer 612-296-2621  
**Bid due date at 4:30pm:** September 21  
**Agency:** Bemidji State University  
**Deliver to:** Bemidji  
**Requisition #:** B 26070-14865-1

**Commodity:** B F—Shop equipment  
**Contact:** Jack Bauer 612-296-2621  
**Bid due date at 4:30pm:** September 23  
**Agency:** Winona State University  
**Deliver to:** Winona  
**Requisition #:** B 26074-14701

**Commodity:** B G L—TI calculator  
**Contact:** Jack Bauer 612-296-2621  
**Bid due date at 4:30pm:** September 23  
**Agency:** Inver Hills Community College  
**Deliver to:** Inver Grove Heights  
**Requisition #:** B 27157-48919

**Commodity:** B F—TV's  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 4:30pm:** September 21  
**Agency:** Minnesota Correctional Facility  
**Deliver to:** St. Cloud  
**Requisition #:** B 78830-11511

**Commodity:** A I—Roof framing materials  
**Contact:** Pam Anderson 612-296-1053  
**Bid due date at 2pm:** September 23  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Various places  
**Requisition #:** B 79050-70157

**Commodity:** I M—Gymnasium bleachers & installation  
**Contact:** Linda Parkos 612-296-3725  
**Bid due date at 2pm:** September 17  
**Agency:** Northland Community College  
**Deliver to:** Thief River Falls  
**Requisition #:** B 27000-52625

**Commodity:** B G—Pallet lifts  
**Contact:** Jack Bauer 612-296-2621  
**Bid due date at 4:30pm:** September 23  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-39019

**Commodity:** B G—Classroom items  
**Contact:** Jack Bauer 612-296-2621  
**Bid due date at 4:30pm:** September 23  
**Agency:** Metropolitan State University  
**Deliver to:** Various places  
**Requisition #:** B 26176-03494

**Commodity:** Snow removal  
**Contact:** Joyce Dehn 612-297-3830  
**Bid due date at 2pm:** September 24.  
**Agency:** Lakewood Community College  
**Deliver to:** White Bear Lake  
**Requisition #:** Price contract

**Commodity:** Rubbish disposal  
**Contact:** Joyce Dehn 612-297-3830  
**Bid due date at 2pm:** September 23  
**Agency:** Normandale Community College  
**Deliver to:** Bloomington  
**Requisition #:** Price contract

**Commodity:** B G—Canhart go-chair products  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 25  
**Agency:** Building Construction Division  
**Deliver to:** Silver Bay  
**Requisition #:** B 02305-33869

**Commodity:** B F—PDC 20 cellular callbox  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 22  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Golden Valley  
**Requisition #:** B 79000-63310

**Commodity:** B F—Cutlery  
**Contact:** Joan Breisler 612-296-9071  
**Bid due date at 4:30pm:** September 22  
**Agency:** Brainerd Regional Human Service Center  
**Deliver to:** Brainerd  
**Requisition #:** B 55304-09435

**Commodity:** B G K M—Landscaping—Orr Airport  
**Contact:** Linda Parkos 612-296-3725  
**Bid due date at 4:30pm:** September 21  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Various places  
**Requisition #:** B 79000-31687

**Commodity:** B F—Warren chairs  
**Contact:** Teresa Manzella 612-296-7556  
**Bid due date at 4:30pm:** September 22  
**Agency:** Building Construction Division  
**Deliver to:** Silver Bay  
**Requisition #:** B 02305-33870

**Commodity:** B G L—Lighting system  
**Contact:** Joan Breisler 612-296-9071  
**Bid due date at 4:30pm:** September 21  
**Agency:** Brainerd Community College  
**Deliver to:** Brainerd  
**Requisition #:** B 27140-30023

**Commodity:** A H—Hybrid muskellunge  
**Contact:** Brenda Thielen 612-296-9075  
**Bid due date at 2pm:** September 24  
**Agency:** Department of Natural Resources—Regional Headquarters  
**Deliver to:** St. Paul  
**Requisition #:** B 29006-30354

## State Contracts and Advertised Bids

**Commodity:** A 1—Polymer snow plows  
**Contact:** Mary Jo Bruski 612-296-3772  
**Bid due date at 2pm:** September 22  
**Agency:** Minnesota Department of  
Transportation  
**Deliver to:** Various places  
**Requisition #:** B 79382-02411-1

## 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:** Recruitment packet folder,  
12x24 short fold to 12x9, 4 color  
process + 1 PMS, heavy coverage  
both sides, full bleed, color  
separations, color match, dylux and  
colorkey  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 21  
**Agency:** St. Cloud State University  
**Deliver to:** St. Cloud  
**Requisition #:** 25353

### Voices of the Loon

Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

**Voices of the Loon**, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

**The Loon: Voice of the Wilderness**, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$16.95.

**Love of Loons**. A Voyageur Wilderness Book, with color photos and lore of this delightful state bird makes this a beautiful gift. Stock #9-22, \$12.95 + tax.

**Loon Lapel Pin**. Code #15-30, \$2.49.

**Loon Windsock**, 56 inches long in full color. Code #15-29, \$19.95.

**Loon Nature Print**, full-color poster 16" x 22", Code #15-18, \$3.00.

**Loon with Baby**—poster, 16" x 20". Code #15-48, \$3.00.

**TO ORDER:** Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6½% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard, American Express and Discover orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.



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# Minnesota's future environment

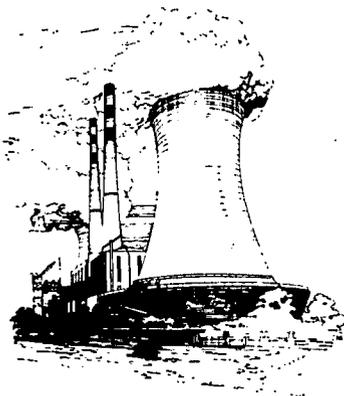
The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.

## 1989 Pollution Control Laws

Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. \$24.95.

## 1992 Hazardous Waste Rules

Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. \$16.95.



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# For Real Estate Professionals:

## REAL ESTATE RULES 1991

Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. \$6.00

## REAL ESTATE LAWS 1990

Includes all the changes made by the 1990 State Legislature. Complete and up-to-date. Code No. 2-92. \$8.00.



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## Morel: Minnesota's mushroom

*The Mushroom Hunter's Field Guide.* An all-color guide by Alexander Smith and Nancy Smith Weber with clear and orderly facts, explicit pictures and scientific accuracy. Stock #9-10, \$16.95.

*Edible Mushrooms,* a classic guide to safe mushrooms, describes 60 species in detail, with photographs (many in color) to show each in its natural habitat. Advice to amateur mushroom hunters. Paperbound, 118 pp. Code #19-11, \$12.95.

*Northland Wildflowers,* the perfect mushroomers companion. An excellent guide for identification and enjoyment of wildflowers, with 308 color photographs and descriptions of 300 species. Paperbound. 236 pp. Code #19-9, \$16.95.

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## Murder: Minnesota style

**Murder in Minnesota:** A treasury of vintage crimes in which famous and obscure characters come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$6.95.

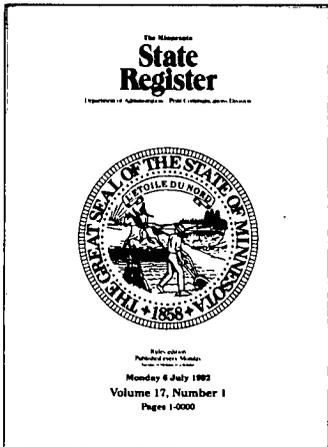
**Robber and Hero:** On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, \$5.95.

**Secrets of the Congdon Mansion:** The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, \$5.95.

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## The "inside scoop" on OVER \$1 BILLION in annual business contracts.



Each year over \$1 billion in state contracts are awarded. About \$20 million in state contracts per week are advertised in the **STATE REGISTER**, the most complete listing of state contracts available. Just a *sampling* of contracts includes: professional, technical and consulting services, commodities, printing, equipment, supplies, food items, and a wide variety of special services.

For less than \$2 a week you can have delivered to your office the most effective and economical means of tracking state contracts. The smart way to stay in the know, and land the business of state government, is with the **STATE REGISTER**, now appearing **TWICE A WEEK**.

You will also have the *most comprehensive listing* of contract awards. And you'll receive the source of state agency rulemaking governing business, the professions and regulated occupations. You'll also get official notices, executive orders of the governor, a calendar of supreme court cases, state grants, and other special announcements.

An annual subscription is \$195 for both the Monday and Thursday editions, or \$150 for just the Monday edition if you're only interested in state agency rulemaking information. A 13-week trial subscription for \$60 includes both the Monday and Thursday editions. MasterCard/VISA, American Express and Discover orders can be taken over the phone, otherwise prepayment is required. Send, or FAX (612/296-2265), your orders to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Let us bring you the business of state government. Subscribe to the **STATE REGISTER** today, or call (612) 296-0931, or 1-800-657-3757 for more information.

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SUBSCRIPTION	COST	CODE NO.	SUBSCRIPTION	COST	CODE NO.
Career Opportunity Bulletin, 1 year	\$ 30.00	90-3	State Register, Monday edition only, 1 year	\$150.00	90-1
Career Opportunity Bulletin, 6 mos.	\$ 24.00	90-4	State Register, Monday and Thursday editions, 1 year	\$195.00	90-1
Gaming News, 6 mo.	\$ 40.00	90-8	Trial State Register, 3-months, Monday and Thursday	\$ 60.00	90-2
Human Services Informational and Instructional Bulletin	\$115.00	90-6	Tax Court/Property Decisions	\$350.00	90-11
Human Services Bulletin List	\$100.00	90-7	Workers Compensation Decisions, unpublished subs run Jan-Dec 1991; can be prorated	\$400.00	90-12
PERB (Public Employee Relations Board) Awards and Decisions, 1 year	\$350.00	90-9	Workers Compensation Decisions Vol. 46	\$180.00	90-13
Minnesota Statutes 1990 Set + Supplement	\$165.00	18-7			
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# Minnesota's Bookstore

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**1989 Pollution Control Laws.** Laws dealing with water pollution, disposal facilities, solid waste management, the Minnesota Environmental Rights Act, recycling, and more. Code #2-21, \$24.95.

**1991 Hazardous Waste Rules.** Governs the production, storage, transportation and disposal of hazardous waste. *Minnesota Rules* Chapter 7045 and 7046. Code #3-71, \$17.95.

**Real Estate Rules 1991.** Chapters 2800, 2805 and 2810 from the *Minnesota Rules. Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code #3-99, \$6.00.

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### OTHER PUBLICATIONS

**Voices of the Loon.** Includes introduction, loon call identification, distant chorus, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during thunderstorm and coyotes calling with loons. Cassette tape. Code #19-73, \$12.00.

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