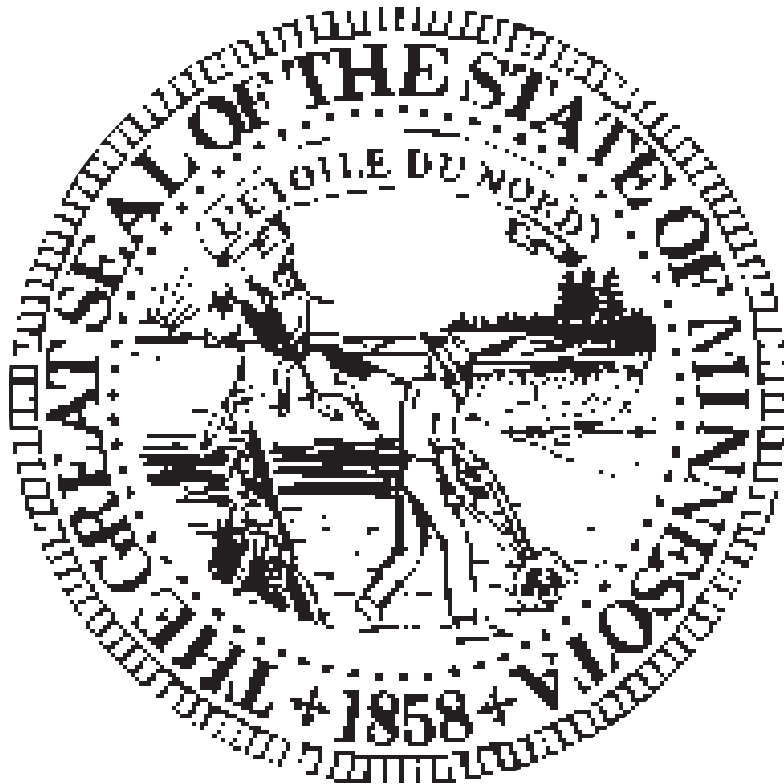


**The Minnesota**  
**State**  
**Register**

**Rules and Official Notices Edition**



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**Pages 777-826**

# 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, professional-technical-consulting contracts, non-state bids and public contracts and grants.

### Printing Schedule and Submission Deadlines

Vol. 23 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
#15	Monday 12 October	Noon Wednesday 30 September	Noon Tuesday 6 October
#16	Monday 19 October	Noon Wednesday 7 October	Noon Tuesday 13 October
#17	Monday 26 October	Noon Wednesday 14 October	Noon Tuesday 20 October
#18	Monday 2 November	Noon Wednesday 21 October	Noon Tuesday 27 October

Arne H. Carlson, Governor 651/296-3391	Hubert H. Humphrey III, Attorney General 651/297-4272	Joan Anderson Grove, Secretary of State 651/296-2079
Joanne E. Benson, Lt. Governor 651/296-3391	Judi Dutcher, State Auditor 651/297-3670	Michael A. McGrath, State Treasurer 651/296-7091
Department of Administration:	Communications.Media Division	Robin PanLener, Editor 651/297-7963
Elaine S. Hansen, Commissioner 651/296-1424	Mary Mikes, Director 651/297-3979	Gretchen Stark, Assistant Editor 651/296-0929
Kent Allin, Asst. Commissioner 651/297-4261		Jessie Rahmeyer, Subscriptions 651/297-8774

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**PUBLISHING NOTICES IN THE *State Register*:** Submit TWO COPIES of your notice, typed double-spaced. State agency submissions must include a "State Register Printing Order" form, and a "Certification/Internal Contract Negotiation" form with contracts for professional, technical and consulting services. Non-State Agencies should submit TWO COPIES, with a letter on your letterhead stationery requesting publication and date to be published. FAXED submissions to 651-297-8260 are received to meet deadline requirements, but must be followed by originals and applicable forms or letters to be accepted. The charge is \$115.00 per page, billed in tenths of a page (columns are seven inches wide). About 2-1/2 pages typed double-spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Contact the editor if you have questions.

An "Affidavit of Publication" can be obtained at a cost of \$10.00 for notices published in the *State Register*. This service includes a notarized "Affidavit of Publication" and a copy of the issue of the *State Register* in which the notice appeared.

**SUBSCRIPTION SERVICES:** The *State Register* is published by Communications.Media Division, Department of Administration, State of Minnesota, pursuant to *Minnesota Statutes* § 14.46 and is available at the main branch of county libraries in Minnesota and all "State Depository Libraries": State University and Community College libraries; the University of Minnesota libraries; St. Paul, Minneapolis and Duluth Public Libraries; the Legislative Reference Library; State Law Library; Minnesota Historical Society Library; and the Library Development Service at the State Department of Children, Families and Learning. Copies are available at Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Order by phone: Metro area: (651) 297-3000 Toll free 800-657-3757. TTY relay service phone number: 1-800-627-3529. **NO REFUNDS.** Subscribers who do not receive a copy of an issue should notify the *State Register* Subscription Office immediately at (651) 297-8774. Copies of back issues may not be available more than two weeks after publication. Both editions are delivered postpaid to points in the United States, Periodicals Postage Paid for the *State Register* at St. Paul, MN, first class for the *Contracts Supplement*. See the *State Register* and the *Contracts Supplement* on our website: <http://www.comm.media.state.mn.us> Click on "Minnesota's Bookstore."

- *State Register* (published every Monday, or Tuesday if Monday is a holiday) One year, hard copy, paper subscription: \$160.00.
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- **13-week trial subscription** which includes both the *State Register* and *Contracts Supplement*. \$65.00
- **Single issues** are available for a limited time: *State Register* \$5.00, *Contracts Supplement* \$1.00. Shipping is \$3.00 per order.

### FOR LEGISLATIVE NEWS

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

Contact: Senate Public Information Office (651) 296-0504  
Room 231 State Capitol, St. Paul, MN 55155

Contact: House Information Office (651) 296-2146  
Room 175 State Office Building, St. Paul, MN 55155

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# Minnesota Rules: Amendments and Additions

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

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 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. The current 1997 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a 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 most current edition of 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 issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (651) 297-3000, or toll-free 1-800-657-3757.

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# Proposed Rules

## Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

## Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

## Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. 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*.

## Board of Chiropractic Examiners

### Proposed Permanent Rules Relating to Alternative Forms of Continuing Education

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

##### **Proposed Amendment to Rules Governing Examination Administration, *Minnesota Rules*, 148.08, Chapter 2500.**

**Introduction.** The Board of Chiropractic Examiners intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Larry A. Spicer, D.C., Executive Director, Minnesota Board of Chiropractic Examiners, 2829 University Avenue SE, Suite 300, Minneapolis, Minnesota 55414, (612) 617-2222. TTY users may call the Board of Chiropractic Examiners at 1-800-627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules are about alternative forms of continuing education. The statutory authority to adopt the rules is *Minnesota Statutes*, section 148.08, subdivision 3.

**Comments.** You have until 4:30 p.m. on Thursday, November 12, 1998, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 12, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**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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**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 18 September 1998

Larry A. Spicer, D.C.  
Executive Director

### **2500.1200 CONTINUING EDUCATION.**

Subpart 1. **Purpose.** The primary purpose of continuing chiropractic education is to assure the consumer of an optimum quality of chiropractic health care by requiring doctors of chiropractic to ~~attend educational classes or seminars~~ participate in continuing education programs designed to advance their professional skills and knowledge.

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

### **2500.1225 ALTERNATIVE FORMS OF CONTINUING EDUCATION.**

All chiropractors may obtain up to 12 units of their 40 unit biennial requirement through alternatives to traditional classroom presentations. All such programs must be approved by the board or a board approved sponsor according to parts 2500.1200 to 2500.2000. Continuing education units may not be obtained in this manner for requirements in radiographic safety, technique, interpretation, infection control, professional boundaries, or reporting parameters for abuse. All programs approved for continuing education credit under this provision must include a written assessment instrument, designed to ensure that the licensee actively participated in the presentation of material and derived a measurable benefit from participation.

### **2500.1500 PROGRAM APPROVAL CRITERIA.**

The sponsor shall employ the following criteria in determining whether a continuing education program shall be approved and the number of continuing education units for which approval is granted:

- A. whether the material to be presented is likely to enhance the practitioner's knowledge and skill in the practice of chiropractic;
- B. whether the instructors or speakers presenting the program, or those persons preparing the program, are sufficiently qualified in the field of their instruction, either by practical or academic experience or both;
- C. whether the classes will be held in a suitable setting or under suitable conditions, which ~~is~~ are considered by the board to be conducive to the learning process; and
- D. whether the program may improve the practitioner's ability to keep records necessary to substantiate the need for chiropractic care.



## Board of Chiropractic Examiners

### Proposed Permanent Rules Relating to Examination Administration

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

##### **Proposed Amendment to Rules Governing Examination Administration, *Minnesota Rules*, 148.08, Chapter 2500.**

**Introduction.** The Board of Chiropractic Examiners intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

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**Subject of Rules and Statutory Authority.** The proposed rules are about expired licenses and unapproved continuing education programs. The statutory authority to adopt the rules is *Minnesota Statutes*, section 148.08, subdivision 3.

**Comments.** You have until 4:30 p.m. on Thursday, November 12, 1998, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 12, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

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## Proposed Rules

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**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 18 September 1998

Larry A. Spicer, D.C.  
Executive Director

### **2500.0710 CONTINUING EDUCATION HOURS FOR EXAMINERS.**

Minnesota licensed chiropractors ~~who contribute at least two hours of time may receive up to six hours of credit of continuing education for participation~~ in the development of an examination, the administration of ~~the an~~ examination, or ~~the a~~ postexamination audit ~~shall receive two regular continuing education hours applied toward the next license renewal~~. No chiropractor may receive more than ~~four~~ 18 hours per ~~calendar year~~ biennium. Hours awarded under this part may not be applied toward requirements for radiographic safety technique or interpretation, infection control, professional boundaries, or reporting parameters for abuse. Hours awarded under this part must be verified in writing by the chief examiner or other designee of the board.

### **2500.0720 APPLICATION AND LICENSURE PREREQUISITES.**

A. In addition to the prerequisites in Subject to Minnesota Statutes, section 148.06, and parts 2500.0700 to 2500.1000, evidence of qualification for licensure, which may include passing the National Board of Chiropractic Examiners' tests: Part I, Part II, the Written Clinical Competency Examination, and the Physiotherapy Examination, is required for the applicant to be permitted to must be received by the board before an applicant may sit for the examination. An applicant may not take examinations given by the board more than six months before the applicant's expected date of graduation from an approved college of chiropractic.

B. No applicant is eligible for licensure until the prerequisites in item A have been completed, the applicant has successfully completed the National Board of Chiropractic Examiners Part IV Practical Examination, and the applicant has successfully completed, in accordance with Minnesota Statutes, section 148.06, subdivision 1, clause (c), any other examinations prescribed by the board. In the event an applicant has taken examinations given by the board, but does not pursue active licensure, the examination scores shall be valid for a period of one year from the date of successful examination. Any applicant wishing to pursue licensure after one year from the original examination shall be required to take any examinations prescribed by the board in accordance with Minnesota Statutes, section 148.06, subdivision 1, clause (c), at the time of subsequent application.

### **2500.0730 EXAMINATION DEADLINE.**

Examination applications and fees must be postmarked not ~~less later~~ than 30 days before the first day of the scheduled examination. Twenty-eight days before the examination, a notice of approval to sit for the examination, or a notice of application deficiency, or a notice of denial to sit for the board's examination shall be mailed to each applicant.

If an applicant receives a notice of application deficiency, the applicant must submit the required documents to the board, postmarked no later than the 14th day before the first day of the examination.

If an application is still incomplete 14 days before the first day of the examination, the applicant shall not be allowed to sit for the examination, and the board shall mail a notice of denial to sit for the examination.

### **2500.0740 REGRADES.**

Applicants who want the board to verify that the score reported to them is accurate may request a hand grading of their examinations. The board shall honor the request if the following criteria are met:

- A. requests must be received by the board no later than 30 days after the examination results have been mailed by the board;
- B. requests must be in writing, indicating which subjects the applicant wishes to have regraded; and
- C. a money order or cashier's check must be submitted in ~~the amount of \$30 a subject an amount established in part 2500.1150.~~

Payment must be received before the regrade. To protect the integrity of the examination process, applicants may not review their examinations under any circumstances.

### **2500.0750 RETAKING EXAMINATION.**

Applicants who fail portions of the supervised licensure examination may retake the failed portions once at the next scheduled supervised examination. Failure to take the portions necessary at the next scheduled examination shall cause the applicant to forfeit the right to do so.



Applicants need not reapply to the board for reexamination of the failed portions; however, applicants must notify the board not later than ~~30~~ 14 days before the examination of their intention to sit for the supervised examination. The applicant shall be scheduled for a supervised reexamination at the next regularly scheduled examination, based on availability. Applicants who are unsuccessful in passing an unsupervised examination, may request that a repeat unsupervised examination be mailed to them.

If within one year from submission of the original examination fee the applicant fails to successfully complete the failed portions of the examination, the applicant must resubmit an application; and pay the required ~~examination~~ application fee; ~~and retake the entire examination.~~

#### **2500.1000 LICENSE APPLICATION FEE.**

Applications for examination and licensure must be accompanied by a fee ~~of \$250~~ established in part 2500.1150. Any application that does not result in the issuance of a license within one year of its submission, shall require the payment of the fee established in part 2500.1150.

## **Board of Chiropractic Examiners**

### **Proposed Permanent Rules Relating to Expired Licenses and Unapproved Continuing Education Programs**

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

##### **Proposed Amendment to Rules Governing Expired Licenses and Unapproved Continuing Education Programs, Minnesota Rules, 148.08, Chapter 2500.**

**Introduction.** The Board of Chiropractic Examiners intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Larry A. Spicer, D.C., Executive Director, Minnesota Board of Chiropractic Examiners, 2829 University Avenue SE, Suite 300, Minneapolis, Minnesota 55414, (612) 617-2222. TTY users may call the Board of Chiropractic Examiners at 1-800-627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules are about expired licenses and unapproved continuing education programs. The statutory authority to adopt the rules is *Minnesota Statutes*, section 148.08, subdivision 3.

**Comments.** You have until 4:30 p.m. on Thursday, November 12, 1998, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 12, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

<p><b>KEY: PROPOSED RULES SECTION</b> — <u>Underlining</u> indicates additions to existing rule language. <del>Strike outs</del> indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." <b>ADOPTED RULES SECTION</b> — <u>Underlining</u> indicates additions to proposed rule language. <del>Strike outs</del> indicate deletions from proposed rule language.</p>
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## Proposed Rules

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**Alternative Format.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 18 September 1998

Larry A. Spicer, D.C.  
Executive Director

### **2500.1110 LICENSE TERMINATION PROCEDURE.**

Subpart 1. **For failure to renew license.** ~~The procedures in this part shall be followed by the board for all licensees who have failed to submit the annual renewal application according to parts 2500.1000 to 2500.2000 including, where applicable, required information about continuing education and applicable fees, except as provided in parts 2500.1000 to 2500.2000. A license which is not renewed by midnight of December 31 of any renewal year, pursuant to part 2500.1100, subpart 2, by reason of failure to pay fees, failure to submit a completed application, or failure to complete all continuing education requirements shall be considered expired. An expired license shall not be considered a disciplined license solely as a result of the expiration. An expired license which remains unexpired shall be terminated according to this part.~~

An expired license which continues to remain expired by reason of failure to pay fees, failure to submit a completed application, or failure to complete required continuing education shall be terminated according to this part. A terminated license shall not be considered a disciplined license solely as a result of the termination.

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

### **2500.1600 UNAPPROVED PROGRAMS.**

Courses dealing with administrative and economic aspects of practice shall not be approved for continuing education credit by the board. ~~For the purposes of this part, courses dealing with practice management designed to increase practice incomes are construed to be within the meaning of administrative and economic aspects of practice. For the purposes of this part, courses dealing with risk management, appropriate coding procedures, or contemporary health care issues affecting the health care industry as a whole shall not be construed as administrative or economic.~~

### **2500.1900 LICENSE REINSTATEMENT.**

The license of any licensee which is not renewed or which is revoked, suspended, or reduced in status by reason of failure to comply with the continuing education requirements of parts 2500.1200 to 2500.2000, ~~or failure to submit a completed application as prescribed by the board may, at the election of the licensee or former licensee, be reinstated or restored to full status by either of the following procedures:~~

[For text of item A, see M.R.]

B. reexamination by the board at the time for which it next schedules license examinations. No such reexamination shall be conducted except upon a written application ~~therefor~~ received by the board executive director not less than ~~30~~ 14 days prior to the examination date.

The license of any licensee which is terminated by reason of failure to submit fees may be reinstated subject to the procedures in items A and B, provided that the appropriate renewal fees and all accrued penalty fees are also paid.

**REPEALER.** *Minnesota Rules*, parts 2500.2050; 2500.2060; and 2500.2070, are repealed.

## Department of Corrections

### Proposed Permanent Rules Governing Certification of Programs for Residential Treatment of Adult Sex Offenders

DUAL NOTICE: Notice of Intent to Adopt a Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing If 25 Or More Requests for Hearing Are Received

**Proposed Permanent Rules Governing Certification of Programs for Residential Treatment of Adult Sex Offenders, Minnesota Rules 2965.0010 to 2965.1070.**

**Introduction.** The Minnesota Department of Corrections intends to adopt a rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28 and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by 4:30 p.m. on November 12, 1998, a public hearing will be held at the Minnesota Department of Corrections, 1450 Energy Park Drive, Suite 200, St. Paul, Minnesota 55108-5219, starting at 9:00 a.m. on November 30, 1998. To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after November 12, 1998 and before November 30, 1998.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to the agency contact person. The agency contact person is: Alan Listiak at the Minnesota Department of Corrections, 1450 Energy Park Drive, Suite 200, St. Paul, Minnesota 55108-5219, (651) 642-0317, FAX (651) 603-0020, e-mail [alistiak@co.doc.state.mn.us](mailto:alistiak@co.doc.state.mn.us). TTY users may call at (651) 643-3589.

**Subject of Rule and Statutory Authority.** The proposed rule is about the minimum standards and requirements that residential adult sex offender treatment programs in state and local correctional facilities and that state operated residential adult sex offender treatment programs not operated in state and local correctional facilities must meet to be certified by the commissioner of corrections. The statutory authority to adopt the rule is *Minnesota Statutes*, section 241.67, subdivision 2, paragraph (a). A copy of the proposed rule is published in the *State Register* and is attached to this notice as mailed to members of the current public advisory committee and those organizations noted in the approved notice plan in the Statement of Need and Reasonableness. If your notice does not have an attached copy of the proposed rule, a free copy of the rule is available upon request from the agency contact person listed above.

**Comments.** You have until 4:30 p.m. on November 12, 1998, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 12, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Accommodation.** If you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

**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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**Modifications.** The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for November 30, 1998, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Alan Listiak at (651) 642-0317, TTY (651) 643-3589, after November 12, 1998, to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.14 to 14.131. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at: Bruce H. Johnson, Office of Administrative Hearings, 100 Washington Square, Suite 1700, 100 Washington Avenue South, Minneapolis, MN 55401-2138, (612) 341-7607, FAX (612) 349-2665.

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.14 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or response period also submit a copy of the written views or data to the agency contact person at the address stated above.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at First Floor South, Centennial Building, 658 Cedar Street, St. Paul, MN, 55155, 1-800-657-3889, (651) 296-5148.

**Adoption Procedure if No Hearing.** If no hearing is required, the agency may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

**Adoption Procedure After the Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rule and files it with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: 29 September 1998

Gothriel La Fleur  
Commissioner

**2965.0010 STATUTORY AUTHORITY AND PURPOSE.**

Subpart 1. **Authority.** Minnesota Statutes, section 241.67, subdivision 1, establishes a sex offender treatment system under the administration of the commissioner of corrections to provide and finance a range of sex offender treatment programs. Minnesota Statutes, section 241.67, subdivision 2, paragraph (a), requires the commissioner of corrections to adopt rules under Minnesota Statutes, chapter 14, which establish standards for sex offender treatment programs and for the certification of sex offender treatment programs in state and local correctional facilities and state-operated sex offender treatment programs not operated in state or local correctional facilities. A correctional facility may not operate a sex offender treatment program unless the program has met the standards adopted by and been certified by the commissioner of corrections.

Subp. 2. **Purpose and scope.** This chapter sets minimum sex offender treatment program standards through rules according to Minnesota Statutes, section 241.67, subdivision 2, paragraph (a). These standards apply to and provide a framework for the inspection and certification of:

A. residential adult sex offender treatment programs in state and local correctional facilities; and

B. state-operated residential adult sex offender treatment programs not operated in state and local correctional facilities.

Nothing in this chapter shall be construed to require state-owned and state-operated adult sex offender treatment programs or the facilities in which they function to be licensed or accredited as a correctional or residential facility in order to be certified. This chapter does not apply to programs licensed under parts 9515.3000 to 9515.3110.

**2965.0020 DEFINITIONS.**

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Administrative director.** “Administrative director” means the person designated to be responsible for administrative operations of a treatment program.

Subp. 3. **Applicant.** “Applicant” means an entity applying for a certificate or a renewal of a certificate.

Subp. 4. **Basic treatment protocol.** “Basic treatment protocol” means the statement of the philosophy, goals, and model of sex offender treatment employed by the certificate holder. The basic treatment protocol also describes the sex offender population served; the theoretical principles and operating methods employed to treat clients; the scope of the services offered; and how all program components, such as clinical services, therapeutic milieu, group living, security, medical and psychiatric care, social services, educational services, recreational services, and spirituality, as appropriate to the program, are coordinated and integrated to accomplish the goals and desired outcomes of the protocol.

Subp. 5. **Case management.** “Case management” means the use of a planned framework of action that coordinates services both within the program and with other agencies and providers involved with a client regarding the client’s progress in treatment and plans for discharge and aftercare, as appropriate.

Subp. 6. **Certificate.** “Certificate” means the document issued by the commissioner certifying that a licensed residential adult sex offender program has met the requirements of this chapter.

Subp. 7. **Client.** “Client” means a person who receives sex offender treatment in a program certified under this chapter.

Subp. 8. **Clinical supervision.** “Clinical supervision” means the documented oversight responsibility for the planning, development, implementation, and evaluation of clinical services such as admissions, intake assessment, individual treatment plans, delivery of sex offender treatment services, client progress in treatment, case management, discharge planning, and staff development and evaluation.

Subp. 9. **Clinical supervisor.** “Clinical supervisor” means the person designated to be responsible for the clinical supervision of a residential adult sex offender treatment program.

Subp. 10. **Commissioner.** “Commissioner” means the commissioner of the Minnesota Department of Corrections or the commissioner’s designee.

Subp. 11. **Correctional facility.** “Correctional facility” has the meaning given in Minnesota Statutes, section 241.021, subdivision 1, clause (5).

<p><b>KEY: PROPOSED RULES SECTION</b> — <u>Underlining</u> indicates additions to existing rule language. <del>Strike outs</del> indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” <b>ADOPTED RULES SECTION</b> — <u>Underlining</u> indicates additions to proposed rule language. <del>Strike outs</del> indicate deletions from proposed rule language.</p>
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## Proposed Rules

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**Subp. 12. Criminal sexual behavior.** “Criminal sexual behavior” means any criminal sexual behavior as identified in *Minnesota Statutes*, sections 609.293 to 609.352, 609.36, 609.365, 609.79, 609.795, and 617.23 to 617.294.

**Subp. 13. Department.** “Department” means the Minnesota Department of Corrections.

**Subp. 14. Discharge summary.** “Discharge summary” means written documentation prepared at the end of treatment by the program summarizing a client’s involvement in treatment.

**Subp. 15. Family.** “Family” has the meaning given in *Minnesota Statutes*, section 256.032, subdivision 7.

**Subp. 16. Individual treatment plan.** “Individual treatment plan” means a written plan of intervention, treatment, and services for a client in a residential adult sex offender treatment program that is based on the results of the client’s intake assessment and is reviewed at scheduled intervals.

**Subp. 17. Legal guardian.** “Legal guardian” means a guardian as defined in *Minnesota Statutes*, section 525.539, subdivision 2, or a conservator as defined in *Minnesota Statutes*, section 525.539, subdivision 3.

**Subp. 18. License.** “License” means a license issued by the commissioner or the commissioner of human services authorizing the license holder to provide specified correctional or residential services according to the terms of the license and the rules of the commissioner or the commissioner of human services.

**Subp. 19. Paraphilia.** “Paraphilia” means a psychosexual disorder as described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association in 1994, which is incorporated by reference and is available through the Minitex interlibrary loan system. The manual is not subject to frequent change.

**Subp. 20. Progress report.** “Progress report” means a report which describes the status of a client in a sex offender treatment program.

**Subp. 21. Psychophysiological assessment of deception.** “Psychophysiological assessment of deception” means a procedure used in a controlled setting to develop an approximation of the veracity of a client’s answers to specific questions developed in conjunction with the program staff and the client by measuring and recording particular physiological responses to those questions.

**Subp. 22. Psychophysiological assessment of sexual response.** “Psychophysiological assessment of sexual response” means a procedure used in a controlled setting to develop an approximation of a client’s sexual response profile and insight into the client’s sexual motivation by measuring and recording particular physiological and subjective responses to a variety of sexual stimuli.

**Subp. 23. Residential adult sex offender treatment program.** “Residential adult sex offender treatment program” means a program certified by the commissioner that provides sex offender treatment to adult sex offenders in which the offender resides and offering a program of services on a 24-hour basis.

**Subp. 24. Serious violations of policies and procedures.** “Serious violations of policies and procedures” means a violation that threatens the quality and outcomes of the treatment services, or the health, safety, security, detention, or well-being of clients or program staff; and the repeated nonadherence to program policies and procedures.

**Subp. 25. Sex offender.** “Sex offender” means a person who has engaged in, or attempted to engage in, criminal sexual behavior as defined in subpart 12 or who is ordered to sex offender treatment incident to adjudication for any other crime.

**Subp. 26. Sex offender intake assessment.** “Sex offender intake assessment” means the assessment of a sex offender after admission to a residential sex offender treatment program to determine the client’s current cognitive, emotional, behavioral, and sexual functioning, amenability to treatment, risk level, and treatment needs.

**Subp. 27. Sex offender treatment.** “Sex offender treatment” means a comprehensive set of planned and organized therapeutic experiences and interventions that are intended to improve the prognosis, function, or outcome of clients to reduce their risk of sexual reoffense, or other sexually abusive and other aggressive behavior by assisting them to adjust to and deal more effectively with their life situations. The focus of sex offender treatment is on:

A. the occurrence and dynamics of sexual behavior and provision of information, psychotherapeutic interventions, and support to clients to assist them to develop the motivation, skills, and behaviors that promote change and internal self-control; and

B. the coordination of services with other agencies and providers involved with a client to promote external control of the client’s behavior.

Sex offender treatment does not include treatment that addresses sexually abusive or criminal sexual behavior that is provided incidental to treatment for mental illness, mental retardation, or chemical dependency.

**Subp. 28. Sexually abusive behavior.** “Sexually abusive behavior” means any sexual behavior in which:

- (1) the other person involved does not freely consent to participate;
- (2) the relationship between the persons is unequal; or
- (3) verbal or physical intimidation, manipulation, exploitation, coercion, or force is used to gain participation.

**Subp. 29. Special assessment and treatment procedures.** “Special assessment and treatment procedures” means procedures used in sex offender assessment and treatment that are intrusive, intensive, or restrictive and present a potential physical or psychological risk when used without adequate care. A special assessment and treatment procedure that is intrusive impinges upon or invades a client’s normal physical or psychological boundaries. Such procedures include the psychophysiological assessment of deception and sexual response, and treatment strategies that involve the use of aversive or painful stimuli. A special assessment and treatment procedure that is intensive involves the application of a procedure in a strong or amplified form to increase the effect of the procedure for a client. Such procedures include marathon therapy sessions, psychodrama and role play involving the reenactment of criminal sexual behaviors or victimization, and certain forms of behavioral management in the therapeutic milieu, for example, high-level confrontation. A special assessment and treatment procedure that is restrictive limits or controls a client’s privileges, access to resources, or freedom of movement in the program. Such procedures include certain forms of behavioral management in the therapeutic milieu such as the use of seclusion, timeout, and restraint.

**Subp. 30. Supervising agent.** “Supervising agent” means the parole or probation agent working with a client.

**Subp. 31. Therapeutic milieu.** “Therapeutic milieu” means the planned and controlled use of the program environment and components as part of the treatment regimen to foster and support desired behavioral and cognitive changes in clients. A therapeutic milieu functions to coordinate and integrate supervised group living and the delivery of treatment services with other program components such as security, medical and psychiatric care, social services, nutrition, education, recreation, and spirituality. The nature and degree of development of a therapeutic milieu in the program may vary, depending upon the certificate holder’s basic treatment protocol and the environmental and other conditions in which the program operates.

**Subp. 32. Treatment team.** “Treatment team” means at least two persons employed by or under contract to a residential adult sex offender treatment program who provide assessment, treatment, or clinical oversight services to clients.

**Subp. 33. Variance.** “Variance” means written permission given by the commissioner allowing the applicant or certificate holder to depart from specific provisions of this chapter for a specific period of time.

**Subp. 34. Victim.** “Victim” has the meaning given in *Minnesota Statutes*, section 611A.01, paragraph (b).

#### **2965.0030 PROCEDURES FOR CERTIFICATION.**

**Subpart 1. Filing application for certification.** The administrative director or other person in charge of a previously uncertified residential adult sex offender treatment program must file an application for certification with the commissioner of corrections at least 60 days prior to the date the program expects to begin providing sex offender treatment. Completed applications shall be considered for certification by the commissioner.

**Subp. 2. Application for renewal of certification.** The administrative director or other person in charge of a certified residential adult sex offender treatment program must file an application to renew certification must be filed with the commissioner at least 60 days prior to expiration of the current certificate. The applicants must file the materials required in the application packet described in subpart 1 and a record of changes in the treatment program or facility during the period covered by the current certification and contemplated changes for the coming certification period.

**Subp. 3. Application by programs required to be certified under this chapter but in operation prior to the effective date of this chapter.** The administrative director or other person in charge of a program required to be certified under this chapter but in operation prior to the effective date of this chapter must file an application with the commissioner within 60 days following the publication of a notice of adoption of this chapter in the *State Register*.

#### **2965.0040 CONDITIONS OF CERTIFICATION.**

**Subpart 1. Issuance of certificate.** An applicant must be issued a certificate if the residential adult sex offender treatment program conforms with this chapter, or the commissioner determines that the applicant is making satisfactory progress toward conformance, and the quality and outcomes of the treatment services and interests and well-being of the clients and staff are protected.

**Subp. 2. Review of applicant.** A review of the applicant shall begin after the commissioner receives the completed application. Before a certificate is issued or renewed, the commissioner must complete a certification study that includes:

- A. inspection of the physical plant, program records, and documents;
- B. review of all conditions required to be in compliance with this chapter; and

<p><b>KEY: PROPOSED RULES SECTION</b> — Underlining indicates additions to existing rule language. <del>Strike outs</del> indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” <b>ADOPTED RULES SECTION</b> — Underlining indicates additions to proposed rule language. <del>Strike outs</del> indicate deletions from proposed rule language.</p>
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C. observation of the program in operation or review of the plans for beginning operations.

Subp. 3. **Term.** The certificate shall remain in force for one year unless revoked. The commissioner may issue a certificate for up to two years to programs which have operated for at least one year without negative action against the program's certification or any relevant license or accreditation.

Subp. 4. **Posting required.** A residential adult sex offender treatment program must post the certificate conspicuously in an area where it may be read by clients.

Subp. 5. **Nontransferable.** A certificate is not transferable. Certification applies only to the entity to whom it is issued.

Subp. 6. **Commissioner approval of proposed changes required.** The certificate holder must notify the commissioner in writing and obtain the commissioner's approval at least 20 days prior to making any changes in relevant licensing or accreditation conditions, staffing patterns that reduce the amount of program services, the total number of hours, or the type of program services offered to clients.

Subp. 7. **Void.** The certification is void if there is a change in location, organization, procedure, or policies which affect either the terms of the certification or any relevant facility license or accreditation, the program's continuing eligibility for certification, or the facility's continuing eligibility for licensure, or accreditation.

### **2965.0050 MONITORING OF CERTIFIED PROGRAMS.**

Subpart 1. **Purpose.** Each certified residential adult sex offender treatment program must be monitored to ensure that it is in compliance with the standards established in this chapter. Monitoring is conducted by department personnel with demonstrated understanding and expertise in program evaluation and the treatment of adult sex offenders.

Subp. 2. **Program review and site visit.** Each program may be monitored through a site visit. This site visit may be timed to coincide with other licensing inspections or evaluations. The department's visits to a program to investigate complaints or for any other lawful purpose may take place at any time and shall be conducted according to *Minnesota Statutes*, section 241.021, subdivision 1.

Subp. 3. **Program monitoring records.** Each program must maintain sufficient documentation in client and operational records to verify that it complies with the requirements of this chapter. Each program must also document compliance with its written policies and procedures, including, but not limited to: the number of clients served; the type, amount, frequency, and cost of services provided; the consistency of services delivered with individual client treatment plans; the effectiveness in achieving the client's treatment goals; and other information requested by the department on forms provided by the department.

### **2965.0060 DENIAL, REVOCATION, SUSPENSION, AND NONRENEWAL OF CERTIFICATION.**

Subpart 1. **Compliance required.** The commissioner must deny the application for certification of an applicant which does not comply with this chapter. The commissioner must revoke or suspend the certification of a residential adult sex offender treatment program if the program does not comply with this chapter. The commissioner must not renew the certification of an applicant who has a history of failure to comply with the standards and procedures of this chapter.

Subp. 2. **Notice of noncompliance.** The commissioner must notify by certified mail any applicant or certificate holder who does not comply with this chapter that the certificate may be denied, revoked, suspended, or not renewed. This notice must state the grounds for such action and must inform the applicant or certificate holder of the actions required to correct the situation or to apply for a variance and that the applicant or certificate holder has 30 days to respond and comply with the requirements of the notice of noncompliance.

Subp. 3. **Notice to program of action.** After the 30-day period to respond to the notice of noncompliance has expired, a certificate holder of a program that does not take the action required by the notice of noncompliance must be notified in writing, by certified mail, that the program's certificate has been denied, revoked, suspended, or not renewed. The notice must inform the applicant or certificate holder of the right to appeal the commissioner's action.

Subp. 4. **Shortened notice to program of action.** A program whose residential or correctional facility license or accreditation is revoked, suspended, or not renewed, or a program whose operation poses an immediate danger to the health and safety of the clients or the community, must have its certificate revoked or suspended by the commissioner upon delivery of the notice of revocation or suspension to the certificate holder or any staff person at the program.

Subp. 5. **Notification to commissioner of investigation or litigation.** An applicant or certificate holder must notify the commissioner by the next working day if the program or any of its staff has:

A. received official notice that a licensing board or professional accreditation organization is investigating malpractice or ethical violations;

B. been named as a party defendant in a civil action where a complaint has been filed with the court or has been named as a defendant in a criminal proceeding, where either the civil or criminal proceeding is related to the delivery of services or professional activities; or

C. received official notice that a staff person is being investigated for child abuse or maltreatment of minors.

**Subp. 6. Temporary suspension.** A program's certification may be temporarily suspended if subpart 5, item A, B, or C, applies and the commissioner determines that there is a likelihood that the program will be rendered ineffective by the investigation or litigation or there is a risk of harm to a client or the community related to the violation alleged.

**Subp. 7. Revocation.** A program's certification may be revoked if the program is found guilty of any charges or liable for any litigation relating to subpart 5, item A, B, or C.

**Subp. 8. Appeals.** An applicant or certificate holder whose application for certification is denied or whose certificate is revoked, suspended, or not renewed may appeal the commissioner's action. The appeal must be in writing and mailed to the commissioner within 30 days of the date of the notice of action in subpart 3. The commissioner may reconsider the action of the department or may arrange a date for hearing the appeal with the Office of Administrative Hearings. The department must advise the appellant of the department's action on the appeal no later than 30 days after the receipt of the written appeal to the commissioner.

#### **2965.0070 VARIANCE.**

**Subpart 1. Request for variance.** An applicant or certificate holder may request a variance for up to one year from the requirements of this chapter. A request for a variance must be submitted to the commissioner on a form supplied by the commissioner. The request must specify:

A. the part number of the rule requirement from which the variance is requested;

B. the reasons why the applicant or certificate holder cannot comply with the rule requirement;

C. the period of time for which the variance has been requested; and

D. the equivalent measures the applicant or certificate holder must take to ensure the quality and outcomes of the treatment services and the health, safety, and rights of clients and staff, and to comply with the intent of this chapter, if the variance is granted.

**Subp. 2. Evaluation of a variance request.** A variance may be granted if the commissioner determines that the conditions in items A to F exist.

A. Compliance with one or more of the provisions shall result in undue hardship, or jeopardize the quality and outcomes of the treatment services or the health, safety, security, detention, or well-being of clients or program staff.

B. The residential adult sex offender treatment program otherwise conforms with the standards in this chapter or is making satisfactory progress toward conformity.

C. Granting the variance shall not preclude the facility from making satisfactory progress toward conforming with this chapter.

D. Granting the variance shall not leave the well-being of the clients unprotected.

E. The program shall take other action as required by the commissioner to comply with the general purpose of the standards.

F. Granting the variance does not violate applicable laws and rules.

**Subp. 3. Notice by commissioner.** Within 30 days after receiving the request for a variance and documentation supporting it, the commissioner must inform the applicant or certificate holder in writing if the request has been granted or denied and the reasons for the decision. The commissioner's decision to grant or deny a variance request is final and not subject to appeal under *Minnesota Statutes*, chapter 14.

#### **2965.0080 STAFFING REQUIREMENTS.**

**Subpart 1. Highest requirement.** If the staffing requirements of this part conflict with the staffing requirements of applicable rules governing a program's licensure or accreditation, the highest staffing requirement is the prevailing requirement.

**Subp. 2. Administrative director required.** The program must employ or have under contract an administrative director who meets the requirements under part 2965.0090, subpart 2.

**Subp. 3. Responsible staff person.** Where appropriate, the administrative director must, during all hours of operation, designate a staff member who is present in the program as responsible for the program.

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**Subp. 4. Clinical supervisor required.** The program must employ or have under contract a clinical supervisor who meets the requirements under part 2965.0090, subpart 3. For each client in the program, a clinical supervisor must provide at least two hours per month of clinical supervisory service. The clinical supervisor must establish a staff evaluation and supervision procedure that identifies the performance and competence of each treatment staff person and ensures that each staff person received the guidance and support needed to provide treatment services in the areas in which they practice. At least four hours per month must be devoted to the clinical supervision of each staff person providing treatment services. Clinical supervision of staff may be provided in individual or group sessions. The clinical supervisor must document all clinical supervisory activities in the appropriate location.

**Subp. 5. Sex offender treatment staff required.** The program must employ or have under contract staff who are responsible and qualified to deliver sex offender treatment services in the program. The sex offender treatment staff include: the clinical supervisor who meets the qualifications in part 2965.0090, subpart 3; the sex offender therapist who meets the qualifications in part 2965.0090, subpart 4; and the sex offender counselor who meets the qualifications in part 2965.0090, subpart 5.

**Subp. 6. One person occupying more than one position.** One person may be simultaneously employed as the administrative director, clinical supervisor, or sex offender therapist if the individual meets the qualifications for those positions. If a sex offender therapist is simultaneously an administrative director or clinical supervisor, that individual shall be considered less than a full-time equivalent sex offender therapist as a proportion of the work hours performed in the other positions.

**Subp. 7. Ratio of sex offender treatment staff to clients.** The program must have sufficient sex offender treatment staff to provide the required program services, implement individual treatment plans, and maintain the safety and security of the program. The number of work hours performed by the sex offender treatment staff may be averaged weekly and combined in different ways, depending on program needs, to achieve a minimum ratio of one full-time equivalent position for each 12 clients in the primary phases of treatment and one full-time equivalent position for each 24 clients in the transition and reentry phases of treatment.

**Subp. 8. Staffing plan.** The program must develop and implement a staffing plan that identifies the assignments of program, security, and sex offender treatment staff so that the staff level is adequate to implement the programming and maintain the safety and security of the program.

**Subp. 9. Staff orientation, development, and training.** The program must have a written staff orientation, development, and training plan for each sex offender treatment staff person. The program shall require that each sex offender treatment staff person complete the amount of course work or training specified in this part. The education must augment job-related knowledge, understanding, and skills to update or enhance the treatment staff's ability to deliver clinical services for the treatment of sexually offending behavior and be documented in the staff person's orientation, development, and training plan.

**A.** A staff member who works an average of half-time or more in a year must complete at least 40 hours of course work or training per biennium.

**B.** A staff member who works an average of less than half-time in a year shall complete at least 26 hours of course work or training per biennium.

**Subp. 10. Examiners conducting psychophysiological assessments of deception.** A program that uses psychophysiological assessments of deception as part of its services must employ or contract with an examiner to conduct the procedure who meets the requirements under part 2965.0090, subpart 6.

**Subp. 11. Examiners conducting psychophysiological assessments of sexual response.** A program that uses psychophysiological assessments of sexual response as part of its services must employ or contract with an examiner to conduct the procedure who meets the requirements under part 2965.0090, subpart 7.

### **2965.0090 STAFF QUALIFICATIONS AND DOCUMENTATION.**

**Subpart 1. Qualifications for all employees working directly with clients.** All persons working directly with clients must meet the following requirements:

**A.** meet the rule requirements of the applicable residential or correctional facility license or accreditation, if any;

**B.** be at least 21 years of age; and

**C.** have a criminal records check before employment at the program.

**Subp. 2. Qualifications for administrative director.** In addition to the requirements of subpart 1, an administrative director must meet the criteria in items A to C.

**A.** An administrative director must hold a postgraduate degree in the behavioral sciences or a field relevant to administering a sex offender program from an accredited college or university, with at least two years of work experience providing services in a correctional or human services program. Alternately, a program director must hold a bachelor's degree in the behavioral sciences or field relevant to administering a sex offender program from an accredited college or university, with a minimum of four years of work experience in providing services in a correctional or human services program.



B. An administrative director must have 2,000 hours of experience in the administration or supervision of a correctional or human services program.

C. An administrative director must have 40 hours of training in topics relating to sex offender treatment and management and human sexuality.

Subp. 3. Qualifications for clinical supervisor. In addition to the requirements in subpart 1, a clinical supervisor must meet the criteria in items A to C.

A. A clinical supervisor must be licensed as a psychologist under *Minnesota Statutes*, section 148.907; an independent clinical social worker under *Minnesota Statutes*, section 148B.21; a marriage and family therapist under *Minnesota Statutes*, sections 148B.29 to 148B.39; a physician under *Minnesota Statutes*, section 147.02, and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; or a registered nurse under *Minnesota Statutes*, sections 148.171 to 148.285, and certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Association.

B. A clinical supervisor must have experience and proficiency in the following areas:

(1) at least 4,000 hours of full-time supervised experience in the provision of individual and group psychotherapy to individuals in at least one of the following settings: corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services;

(2) 2,000 hours of supervised experience in the provision of direct therapy services to sex offenders;

(3) sex offender assessment; and

(4) case management, including treatment planning, general knowledge of social services and appropriate referrals, and record keeping, mandatory reporting requirements, and confidentiality rules and regulations that apply to adult sex offender clients.

C. A clinical supervisor must have training in the following areas or subjects:

(1) 30 hours in child, adolescent, or adult development;

(2) 12 hours in clinical supervision;

(3) 16 hours in the treatment of cognitive distortions, thinking errors, and criminal thinking;

(4) 16 hours in behavioral therapies for sex offenders;

(5) 16 hours in relapse prevention;

(6) 16 hours in human sexuality;

(7) 16 hours in family systems;

(8) 12 hours in crisis intervention;

(9) 12 hours in the policies and procedures of the Minnesota criminal justice system; and

(10) 12 hours in substance abuse treatment.

Persons who do not have the training required in this part shall have one year from their date of hire to complete the training.

Subp. 4. Qualifications for sex offender therapist. In addition to the requirements under subpart 1, a sex offender therapist must meet the criteria in items A to C.

A. A sex offender therapist must be licensed as a psychologist under *Minnesota Statutes*, section 148.907; a psychological practitioner under *Minnesota Statutes*, section 148.908; an independent clinical social worker under *Minnesota Statutes*, section 148B.21; a marriage and family therapist under *Minnesota Statutes*, sections 148B.29 to 148B.39; a physician under *Minnesota Statutes*, section 147.02, and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; or a registered nurse under *Minnesota Statutes*, sections 148.171 to 148.285, and certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Association.

B. A sex offender therapist must have experience and proficiency in the following areas:

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(1) 2,000 hours of supervised experience in the provision of individual and group psychotherapy to individuals in one of the following settings: corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services;

(2) 2,000 hours of supervised experience in the provision of direct therapy services to sex offenders;

(3) sex offender assessment; and

(4) case management, including treatment planning, general knowledge of social services and appropriate referrals, and recordkeeping, mandatory reporting requirements, and confidentiality rules and regulations that apply to adult sex offender clients.

C. A sex offender therapist must have training in the following areas or subjects:

(1) 30 hours in child, adolescent, or adult development;

(2) 16 hours in the treatment of cognitive distortions, thinking errors, and criminal thinking;

(3) 16 hours in behavioral therapies for sex offenders;

(4) 16 hours in relapse prevention;

(5) 16 hours in human sexuality;

(6) 16 hours in family systems;

(7) 12 hours in crisis intervention;

(8) 12 hours in the policies and procedures of the Minnesota criminal justice system; and

(9) 12 hours in substance abuse treatment.

Persons who do not have the training required in this part shall have one year from their date of hire to complete the training.

**Subp. 5. Qualifications for sex offender counselor.** In addition to the requirements under subpart 1, a sex offender counselor must meet the criteria in items A to C.

A. A sex offender counselor must hold a postgraduate degree or bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university.

B. A sex offender counselor holding a bachelor's degree must have experience and proficiency in one of the following areas:

(1) 1,000 hours of experience in the provision of direct counseling and case management services to clients in one of the following settings: corrections, chemical dependency, mental health, developmental disabilities, social work, or victim services;

(2) 500 hours of experience in the provision of direct counseling or case management services to sex offenders or other involuntary clients; or

(3) 2,000 hours of experience in a secured correctional or community corrections environment.

C. A sex offender counselor holding either degree must have training in the following areas or subjects:

(1) 30 hours in child, adolescent, or adult development;

(2) 12 hours in the treatment of cognitive distortions, thinking errors, and criminal thinking;

(3) eight hours in behavioral therapies for sex offenders;

(4) eight hours in relapse prevention;

(5) eight hours in human sexuality;

(6) eight hours in family systems;

(7) four hours in crisis intervention;

(8) four hours in the policies and procedures of the Minnesota criminal justice system; and

(9) four hours in substance abuse.

Persons who do not have the training required in this part shall have one year from their date of hire to complete the training.

**Subp. 6. Qualifications for examiners conducting psychophysiological assessments of deception.** The examiner conducting psychophysiological assessments of deception must:

A. be a full or associate member in good standing of the American Polygraph Association; and

B. have 40 hours of training in the clinical use of this procedure in the assessment, treatment, and supervision of sex offenders.

**Subp. 7. Qualifications for examiners conducting psychophysiological assessments of sexual response.**

A. The clinical level examiner conducting psychophysiological assessments of sexual response must:

(1) be a doctor of medicine licensed under *Minnesota Statutes*, section 147.02, a psychologist licensed under *Minnesota Statutes*, section 148.907, or a social worker licensed under *Minnesota Statutes*, section 148B.21;

(2) have 40 hours of training in the clinical use of this procedure in the assessment and treatment of sex offenders; and

(3) have conducted five assessments under the direct supervision of a clinical level examiner who was present through the entire procedure.

Persons who meet the qualifications in subitem (1) and have been conducting psychophysiological assessments of sexual response for three years or more at the time this chapter becomes effective are exempt from the qualifications specified in subitems (2) and (3).

B. The technical level examiner conducting psychophysiological assessments of sexual response must:

(1) be under the direct supervision of a clinical level examiner;

(2) have eight hours of training in the clinical use of this procedure in the assessment, treatment, and supervision of sex offenders; and

(3) have conducted five assessments under the direct supervision of a clinical level examiner who was present through the entire procedure.

**Subp. 8. Documentation of qualifications.**

A. The department shall accept one of the following as adequate documentation that the staff described in subparts 2 to 7 have the required qualifications:

(1) copies of required professional licenses and other relevant certificates and memberships; and

(2) copies of official transcripts, attendance certificates, syllabi, or other credible evidence documenting successful completion of required training.

B. All qualification documentation must be maintained by the facility in the employee's personnel file or other appropriate personnel record.

**Subp. 9. Existing staff exempt from qualifications for current position when this chapter becomes effective.** Administrative directors and sex offender treatment staff who have been in their positions for six months or more at the time this chapter becomes effective are exempt from the qualifications specified for their position in this part, but must meet the qualifications required under subpart 1 or for other positions defined in this part.

**2965.0100 STANDARDS FOR SEX OFFENDER ADMISSION AND ASSESSMENT.**

**Subpart 1. Admission procedure and new client intake assessment required.** A written admission procedure must be established that includes the determination of the appropriateness of the client by reviewing the client's condition and need for treatment, the treatment services offered by the program, and other available resources. This procedure must be coordinated with the external, nonclinical conditions required by the legal, correctional, and administrative systems within which the program operates. An intake assessment procedure must also be established that determines the client's functioning and treatment needs. All clients referred to a residential adult sex offender treatment program must have a written intake assessment completed within the first 30 days of admission to the program.

**Subp. 2. Assessments conducted by qualified staff.** The clinical supervisor must direct qualified staff to gather the requisite information during the intake assessment process and any subsequent reassessments. The staff who conduct the intake assessment must be trained and experienced in the administration and interpretation of sex offender assessments.

**Subp. 3. Intake assessment appropriate to basic treatment protocol of program.** A program may adapt the parameters specified in subparts 6 to 8 to conduct assessments that are appropriate to the program's basic treatment protocol. The rationale for the particular adaptation must be provided in the program policy and procedures manual as specified under part 2965.0140, subpart 1, item E.

**Subp. 4. Reassessment.** At the discretion of the clinical supervisor or treatment team, a full or partial reassessment may be conducted to formally document changes in the client's progress in treatment, movement within the structure of the program, receipt or loss of privileges, and discharge from the program.

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**Subp. 5. Cultural sensitivity.** Assessments must take into consideration the effects of cultural context, ethnicity, race, social class, and geographic location on the personality, identity, and behavior of the client.

**Subp. 6. Sources of assessment data.** Sources of data may include:

A. collateral information, such as police reports, victim statements, child protection information, presentence sex offender assessments, presentence investigations, and delinquent and criminal history;

B. psychological and psychiatric test information;

C. sex offender-specific test information, including psychophysiological measurement of deception and sexual response;

D. relevant medical information;

E. interviews with the client;

F. previous and concurrent assessments of the client, including chemical dependency, psychological, educational, and vocational;

G. interviews, telephone conversations, or other communication with the client's family members, friends, victims, witnesses, probation officers, and police; and

H. observation and evaluation of the client's functioning and participation in the treatment process while in residency.

**Subp. 7. Dimensions included in assessment report.** The assessment report must include, but is not limited to, baseline information about the following dimensions, as appropriate:

A. a description of the client's conviction or adjudication offense, noting the facts of the criminal complaint, the client's description of the offense, any discrepancies between the client's and the official's or victim's description of the offense, and a conclusion about the reasons for any discrepancies in the information;

B. the client's history of perpetration of sexually abusive and criminal sexual behavior and delineation of patterns of sexual response which considers such variables as:

(1) the number and types of known and reported sexually abusive and criminal sexual behaviors committed by the client;

(2) the type of sexual aggression used and any use of weapons;

(3) the number, age, sex, relationship to client, and other relevant characteristics of the victims;

(4) the type of injury to the victims and the impact of the sexually abusive or criminal sexual behavior on the victims;

(5) the dynamics and process of victim selection;

(6) the role of chemical use prior to, during, and after any sexually abusive and criminal sexual behaviors;

(7) the degree of impulsivity and compulsivity, including any attempts by the client to control or eliminate offensive behaviors, including previous treatment;

(8) use of cognitive distortions, thinking errors, and criminal thinking in justifying, rationalizing, and supporting the sexually abusive and criminal sexual behaviors;

(9) the reported degree of sexual response prior to, during, and after any sexually abusive and criminal sexual behaviors;

(10) a profile of sexual arousal or response, including any paraphilic or sexually abusive fantasies, desires, and behaviors;

(11) the degree of denial and minimization, degree of remorse and guilt regarding the offense, and degree of empathy for the victim expressed by the client; and

(12) the developmental progression of sexually abusive behavior over time;

C. the client's developmental sexual history that considers such variables as:

(1) family or origin or other caretaker attitudes about sexuality and the sexual atmosphere;

(2) childhood and adolescent learning about sexuality, patterns of sexual interest, and sexual play;

(3) history of reported sexual victimization;

(4) sexual history time line;

(5) courtship behaviors and relationships, including marriages;

(6) experience of puberty;

(7) exposure to and use of sexually explicit materials;

(8) nature and use of sexual fantasies;

- (9) masturbation pattern;
- (10) sense of gender identity and sex role behavior and attitude;
- (11) sexual orientation; and
- (12) sexual attitudes and knowledge;

D. the client's history of any other aggressive or criminal behavior;

E. the client's personal history which includes such areas as:

- (1) current living circumstances and relationships;
- (2) prior out-of-home placements and living arrangements;
- (3) medical history;
- (4) educational history;
- (5) chemical dependency history;
- (6) employment and vocational history; and
- (7) military history;

F. a family history which considers such variables as:

- (1) reported family composition and structure;
- (2) parental separation and loss;
- (3) family strengths and dysfunctions;
- (4) criminal history;
- (5) chemical abuse history;
- (6) mental health history;
- (7) sexual, physical, and emotional maltreatment; and
- (8) family response to the sexual criminality;

G. the views and perceptions of significant others, including their ability or willingness to support any treatment efforts;

H. personal mental health functioning which includes such variables as:

- (1) mental status;
- (2) intellectual functioning;
- (3) coping abilities, adaptational styles, and vulnerabilities;
- (4) impulse control and ritualistic or obsessive behaviors;
- (5) personality attributes and disorders or affective disorders;
- (6) learning disability or attention deficit disorder;
- (7) posttraumatic stress behaviors, including any dissociative process that may be operative;
- (8) organicity and neuropsychological factors; and
- (9) assessment of vulnerability;

I. the findings from any previous and concurrent sex offender, psychological, psychiatric, physiological, medical, educational, vocational, or other assessments; and

J. identification of factors that may inhibit as well as contribute to the commission of offensive behavior which may constitute significant aspects of the client's offense cycle and their current level of influence on the client.

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**Subp. 8. Administration of psychological testing and assessments of adaptive behavior.** Where possible, psychological tests and assessments of adaptive behavior, adaptive skills, and developmental functioning used in sex offender intake assessments must be standardized and normed for the given population tested. The results of the tests must be interpreted by a qualified person who is trained and experienced in the interpretation of the tests. The results may not be used as the only or the major source of risk assessment.

**Subp. 9. Assessment conclusions and recommendations.**

**A.** The conclusions and recommendations of the intake assessment must be based on the information obtained during the assessment. The clinical supervisor must convene a treatment team meeting to review the findings and develop the assessment conclusions and recommendations.

**B.** The interpretations, conclusions, and recommendations described in the report must show consideration of the:

(1) strengths and limitations of the procedures used in the assessment;

(2) strengths and limitations of self-reported information and demonstration of reasonable efforts to verify information provided by the client; and

(3) client's legal status and the relevant criminal and legal considerations.

**C.** The interpretations, conclusions, and recommendations described in the report must:

(1) be impartial and provide an objective and accurate base of data;

(2) note any issues or questions which exceed the level of knowledge in the field or the expertise of the assessor; and

(3) address the issues necessary for appropriate decision making regarding treatment and reoffense risk factors.

**Subp. 10. Assessment report.** The assessment report must be based on the conclusions and recommendations of the treatment team review. One qualified sex offender treatment staff person who is also a team member must be responsible for the integration and completion of the written report, which is signed and dated and placed in the client's file. The report must include at least the following areas:

**A.** a summary of diagnostic and typological impressions of the client;

**B.** an initial assessment of the factors that both protect and place the client at risk for unsuccessful completion of the program and sexual reoffense;

**C.** a conclusion about the client's amenability to treatment; and

**D.** a conclusion regarding the appropriateness of the client for placement in the program:

(1) if residential sex offender treatment is determined to be inappropriate, a recommendation for alternative placement or treatment is provided; or

(2) if residential sex offender treatment is determined to be appropriate, the report must present:

(a) an outline of the client's treatment needs and the treatment goals and strategies to address those needs;

(b) recommendations, as appropriate, for the client's needs for services in health, chemical dependency, education, vocational skills, recreation, and leisure activities;

(c) a note of any concurrent psychological or psychiatric disorders, their potential impact on the treatment process, and suggested remedial strategies; and

(d) recommendations, as appropriate, for additional assessments or necessary collateral information, referral, or consultation.

### **2965.0110 STANDARDS FOR INDIVIDUAL TREATMENT PLANS.**

**Subpart 1. Initial individual treatment plan.** A written individual treatment plan for each client must be completed within 30 days of the client's entrance into the program. The individual treatment plan and the interventions designated to achieve its goals must be based on the initial treatment recommendations developed in the intake assessment with additional information from the client and, when possible, the client's family or legal guardian. Input may also be obtained from the program staff, appropriate representatives from outside social service and criminal justice agencies, and other appropriate resources. One qualified sex offender treatment staff person must be responsible for the integration and completion of the written plan, which is signed and dated and placed in the client's file.

**Subp. 2. Explanation, signature, and copies required.** The individual treatment plan must be explained and a copy provided to the client and, if appropriate, the client's family or legal guardian. The program must seek a written acknowledgment that the client and, if appropriate, the client's family or legal guardian have received and understand the individual treatment plan. The individual treatment plan and documentation related to it must be kept at the facility in the client's case file. A copy of the client's individual treatment plan must be made available to the supervising agent, if requested, when it is completed.

Subp. 3. **Plan contents.** The individual treatment plan must include at least the following information:

- A. the sex offender treatment goals and specific time-limited objectives to be addressed by the client;
- B. measurable outcomes for each time-limited treatment objective that specify the therapeutic experiences and interventions most necessary to assist the client achieve the objectives;
- C. the impact of any concurrent psychological or psychiatric disorders on the client's ability to participate in treatment and to achieve treatment goals and objectives;
- D. other problem areas to be resolved by the client;
- E. a list of the services required by the client and the entity who will provide the required services;
- F. the estimated length of time the client will be in the program; and
- G. provisions for the protection of victims and potential victims, as appropriate.

#### **2965.0120 STANDARDS FOR REVIEW OF CLIENT PROGRESS.**

Subpart 1. **Responsibility and documentation.** At least weekly, progress notes must be entered in client files indicating the types and amounts of services each client has received and whether the services have had the desired impact. At least quarterly, the treatment team must review and document each client's progress toward achieving individual treatment plan objectives, approve movement within the structure of the program, and review and modify treatment plans. Documentation of the review must be in each client's file within ten days after the end of the review period.

Subp. 2. **Review session.** A progress review session must involve the client and, if necessary, the client's family or legal guardian, and at least one member of the treatment team. Where appropriate, the program must inform the client's supervising agent and family or legal guardian of the scheduling of each progress review, invite them to attend, and provide them with a summary of the review session. The names of the persons attending the review session who are not clients must be documented in the client's file.

#### **2965.0130 STANDARDS FOR DISCHARGE SUMMARIES.**

Subpart 1. **Notification.** Where applicable, written notice must be provided to the client's supervising agent within 24 hours of a client's discharge from the program.

Subp. 2. **Written summary completed within 14 days.** A written discharge summary for each client discharged from the program must be completed within 14 days of the client's discharge from the program, or upon request by an interested party.

Subp. 3. **Summary content.** The discharge summary must include at least the following information:

- A. the admission date;
- B. the discharge date;
- C. reasons for the client being discharged from the program;
- D. a brief summary of the client's current conviction and past criminal record;
- E. the client's mental status and attitude at the time of discharge;
- F. prescribed medications at discharge;
- G. the client's progress in achieving individual treatment plan goals;
- H. an assessment of the client's offense cycle and protective and risk factors for sexual reoffense;
- I. a description of the client's reoffense prevention plan, including what changes in the client's reoffense potential have been accomplished and what risk factors remain;
- J. the client's aftercare and community reentry plans; and
- K. recommendations for aftercare and continuing treatment.

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### **2965.0140 PROGRAM STANDARDS FOR RESIDENTIAL TREATMENT OF ADULT SEX OFFENDERS.**

**Subpart 1. Program policy and procedures manual.** Each program must develop and follow a written policy and procedures manual. The manual must be made available to clients and program staff. The manual must include, but is not limited to:

A. the basic treatment protocol used to provide services to clients, as defined by the philosophy, goals, and model of treatment employed, including the:

- (1) sex offender population served;
- (2) theoretical principles and operating methods used to deliver services to identified treatment needs of clients served; and
- (3) scope of the services offered;

B. policies and procedures for the management of the therapeutic milieu, as appropriate, including the manner in which the various components of the therapeutic milieu are structured to promote and maintain the desired behavioral and cognitive changes in the client;

C. policies and procedures for the prevention of predation among clients and the promotion and maintenance of the security and safety of clients and staff, which must address the sexual safety of clients and staff, as well as:

- (1) the relationship between security and treatment functions and how staff are used in these functions;
- (2) communication between the various levels of staff in the program; and
- (3) program rules for behavior that include a range of consequences that may be imposed for violation of the rules and due process procedures;

D. admission and discharge criteria and procedures;

E. assessment content and procedures, including the rationale for the particular format and procedures as required by part 2965.0100, subpart 3;

F. treatment planning and review of client progress in treatment;

G. policies and procedures for client communications and visiting with others both within and outside of the program;

H. policies and procedures for the use of special assessment and treatment methods according to part 2965.0160;

I. policies and procedures that address data privacy and confidentiality standards, including reports by a client of previously unreported or undetected criminal behavior and the use of results from psychophysiological procedures as described in part 2965.0160, subparts 2 to 4;

J. policies and procedures for reporting and investigating alleged unethical, illegal, or negligent acts against clients, and of serious violations of written policies and procedures; and

K. the program's quality assurance and program improvement plan and procedures as required in part 2965.0170.

**Subp. 2. Standards of practice for sex offender-specific treatment programming.** This subpart contains the minimal standards of practice for treatment programming provided in a residential adult sex offender treatment program. Treatment programming must:

A. safeguard the well-being of victims and their families, the community, and clients and their families;

B. encourage clients to be personally accountable through participation, self-disclosure, and self-monitoring;

C. address the individual treatment needs of each client;

D. be consistent with and supportable by the professional literature and clinical practice in the field;

E. use effective methods to assist the client to achieve treatment goals and objectives;

F. include and integrate the client's family or guardian into the treatment process when appropriate;

G. address, within the limits of available resources, the client's personality traits and deficits that are related to increased reoffense potential;

H. address any concurrent psychiatric disorders by providing treatment or referring the client for treatment; and

I. protect the legal and civil rights of clients, including the client's right to refuse treatment.

**Subp. 3. Goals of sex offender treatment.** The ultimate goal of residential adult sex offender treatment is to protect the community from criminal sexual behavior by reducing the client's risk of reoffense. To the extent that a conflict develops between community protection and client rights, community protection must be given the greater import.

The goals of sex offender treatment include, but are not limited to, the outcomes in items A to E. The basic treatment protocol of the program shall determine the specific goals that shall be operationalized by the program and the methods used to achieve them. The applicability of those goals and methods to a client shall be determined by that client's intake assessment, individual treatment plan, and progress in treatment. The program must be designed to allow, assist, and encourage the client to develop the motivation and ability to achieve the goals in items A to E, as appropriate.

A. The client must acknowledge the criminal sexual behavior and admit or develop an increased sense of personal culpability and responsibility for the behavior. The program must provide activities and procedures that are designed to assist clients:

- (1) reduce their denial or minimization of their criminal sexual behavior and any blame placed on circumstantial factors;
- (2) disclose their history of sexually abusive and criminal sexual behavior and pattern of sexual response;
- (3) learn and understand the effects of sexual abuse upon victims and their families, the community, and the client and the client's family; and
- (4) develop and implement options for restitution and reparation to their victims and the community, in a direct or indirect manner, as appropriate.

B. The client must choose to stop and act to prevent the circumstances that lead to sexually abusive and criminal sexual behavior and other abusive or aggressive behaviors from occurring. The program must provide activities and procedures that are designed to assist clients:

- (1) identify and assess the function and role of thinking errors, cognitive distortions, and maladaptive attitudes and beliefs in the commission of sexual offenses and other abusive or aggressive behavior;
- (2) learn and use appropriate strategies and techniques for changing thinking patterns and modifying attitudes and beliefs regarding sexually abusive and criminal sexual behavior and other abusive or aggressive behavior;
- (3) identify the function and role of paraphilic and aggressive sexual responses and urges, recurrent sexual fantasies, and patterns of reinforcement in the commission of sexual offenses;
- (4) learn and use appropriate strategies and techniques to:
  - (a) manage paraphilic and aggressive sexual responses, urges, fantasies, and interests; and
  - (b) maintain or enhance sexual response to appropriate partners and situations and develop and reinforce positive, prosocial sexual interests;
- (5) identify the function and role of any chemical abuse or other antisocial behavior in the commission of sexual offenses and remediate those factors;
- (6) demonstrate an awareness and empathetic understanding of the effects of their sexually abusive and criminal sexual behaviors on their victims;
- (7) when appropriate, understand and address their own sense of victimization and its impact on their behavior;
- (8) identify and address particular family issues or dysfunctions that precipitate or support the sexually offensive behavior;
- (9) develop a positive sense of self-esteem and acceptance and demonstrate positive behaviors to meet psychological and social needs;
- (10) develop a detailed reoffense prevention plan that:
  - (a) identifies the pattern or cycle of sexually abusive behavior that includes the background stressors and precipitating conditions and situations that indicate a risk to reoffend;
  - (b) outlines specific alternative, positive social behaviors that will remove or decrease that risk and how to interrupt the cycle before a sexual offense occurs by using self-control methods; and
  - (c) identifies a network of persons who support the client in achieving the desired cognitive and behavioral change;
- (11) practice the positive social behaviors developed in the reoffense prevention plan; and
- (12) build the network of persons identified in subitem (10), unit (c), who will support the implementation of the reoffense prevention plan and share the plan with those persons.

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C. The client must develop a positive, prosocial approach to the client's sexuality, sexual development, and sexual functioning, including realistic sexual expectations and establishment of appropriate sexual relationships. The program must provide activities and procedures that are designed to assist clients:

(1) learn and demonstrate an understanding of human sexuality that includes anatomy, sexual development, the motivations for sexual behavior, the nature of sexual dysfunctions, and how the healthy expression of sexual desire and behavior contrasts with the abusive expression of sexual desire and behavior;

(2) learn and demonstrate an understanding of intimate and love relationships and how to develop and maintain them; and

(3) explore and develop a positive sexual identity.

D. The client must develop positive communication and relationship skills. The program must provide activities and procedures that are designed to assist clients:

(1) develop emotional awareness and demonstrate the appropriate expression of feelings;

(2) develop and demonstrate appropriate levels of trust in relating to peers and other adults; and

(3) develop and demonstrate appropriate communication, anger management, and stress management skills.

E. The client must reenter and reintegrate into the community. The program must provide activities and procedures that are designed to assist clients:

(1) prepare a plan for aftercare that includes arrangements for continuing treatment or counseling, support groups, and socialization, cultural, religious, and recreational activities, as appropriate to the client's needs and consistent with available resources; and

(2) prepare a plan designed to enable the client to successfully prepare for and make the transition into the community.

### **2965.0150 STANDARDS FOR DELIVERY OF SEX OFFENDER TREATMENT SERVICES.**

**Subpart 1. Amount of treatment.** Each client must receive the amount of treatment and frequency of treatment specified in the client's individual treatment plan. At least an average of 12 hours per week of sex offender treatment must be provided to each client in the primary phases of treatment. A variable amount of sex offender treatment, but no less than an average of two hours per week, may be provided to each client in the transitional and reentry phases of treatment.

**Subp. 2. Type of services.** Each client must receive the types of services specified in the client's individual treatment plan.

**Subp. 3. Case management services.** The program must provide each client with case management services. These services must be documented in client files.

**Subp. 4. Quality of services.** Services provided to the client must meet or exceed the quality standards for the type of service provided. Quality standards may be established by an accreditation standard or be based on the current norms for quality of a service in Minnesota.

**Subp. 5. Size of group therapy and psychoeducation groups.** Group therapy sessions must not exceed ten clients per group. Psychoeducation groups must not exceed a sex offender treatment staff-to-client ratio of one-to-16.

**Subp. 6. Duty to monitor services provided by providers under contract to certificate holder.** The certificate holder must monitor the amount, type, quality, and effectiveness of a service provided to a client by a provider under contract to a certificate holder to provide service to a client. If the certificate holder has reason to believe the services provided to a client by a provider under contract to a certificate holder are not provided according to the client's individual treatment plan or are not effective, the certificate holder must find an alternate provider of services for the client as soon as possible.

**Subp. 7. Length of treatment.** The length of time a client is in residential sex offender treatment shall depend upon the program's basic treatment protocol, the client's treatment needs as identified in the client's individual treatment plan, and the client's progress in achieving treatment goals. The minimum length of treatment is four months. At least the first two months of treatment must be provided in the residential setting of the program, after which treatment may be provided in a nonresidential setting operated by or arranged for by the program, as appropriate to the client.

### **2965.0160 STANDARDS FOR USE OF SPECIAL ASSESSMENT AND TREATMENT PROCEDURES.**

**Subpart 1. Policy.** A program that uses special assessment and treatment procedures must develop and follow a policy that describes the:

A. specific procedures to be included in the policy;

B. purpose and rationale for the use of each procedure;

C. qualifications of staff who implement the procedure;



- D. conditions and safeguards under which the procedure is used for a particular client;
- E. process by which the procedure is approved for use with a client;
- F. determination of which procedures are voluntary and require informed consent from the client or the client's legal guardian, as appropriate;
- G. process to obtain and document informed consent; and
- H. process by which the use of the procedure is documented and evaluated for effectiveness.

Subp. 2. **Specific standards for the psychophysiological assessment of deception.** In addition to the requirements in subpart 1, the standards in items A and B apply if a psychophysiological assessment of deception is used.

A. The procedure must be administered in a controlled setting using questions developed in conjunction with the sex offender treatment staff and the client, and in accordance with the current standards and principles of practice published by the American Polygraph Association (Chattanooga, Tennessee, August, 1998), and the current ethical standards and principles for the use of physiological measurements and polygraph examinations of the Association for the Treatment of Sexual Abusers (Beaverton, Oregon, August, 1998). Both of the referenced standards and principles are incorporated by reference and are available through the Minitex interlibrary loan system. Both of the referenced standards and principles are subject to frequent change.

B. The procedure must be administered by a qualified examiner as described in part 2965.0090, subpart 6.

Subp. 3. **Specific standards for the psychophysiological assessment of sexual response.** In addition to the requirements under subpart 1, the standards in items A and B apply if the psychophysiological assessment of sexual response is used.

A. The procedure must be administered in a controlled setting and in accordance with the current ethical standards and principles for the use of physiological measurements and plethysmograph examinations of the Association for the Treatment of Sexual Abusers (Beaverton, Oregon, August, 1998), which are incorporated by reference and are available through the Minitex interlibrary loan system. The standards and principles are subject to frequent change.

B. The procedure must be administered by a qualified examiner as described in part 2965.0090, subpart 7.

C. Materials used as stimuli in the procedure must be stored securely.

Subp. 4. **Additional standard for results and interpretation of data.** The results obtained through the use of psychophysiological procedures in sex offender treatment must be used for assessment, treatment planning, treatment monitoring, or risk assessment. The results must be interpreted within the context of a comprehensive assessment and treatment process and may not be used as the only or the major source of clinical decision making and risk assessment.

Subp. 5. **Contract for technology.** A program that does not own or operate the particular technology required to conduct psychophysiological assessments of deception or sexual response must contract with a qualified consultant or program that has the appropriate technology and meets the standards for use of the procedure in this part.

#### **2965.0170 STANDARDS FOR QUALITY ASSURANCE AND PROGRAM IMPROVEMENT.**

Each program must maintain and follow a quality assurance and program improvement plan and procedures to monitor, evaluate, and improve all components of the program. The review plan must be written and consider the:

- A. goals and objectives of the program and the outcomes achieved;
- B. quality of service delivered to clients in terms of the goals and objectives of their individual treatment plans and the outcomes achieved;
- C. quality of staff performance and administrative support and their contribution to the outcomes achieved in items A and B;
- D. quality of the therapeutic milieu, as appropriate, and its contribution to the outcomes achieved in items A and B;
- E. quality of the client's clinical records;
- F. use of resources in terms of efficiency and cost-effectiveness;
- G. feedback from referral sources, as appropriate, regarding their level of satisfaction with the program and suggestions for program improvement; and

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## Adopted Rules

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H. effectiveness of the monitoring and evaluation process.

The review plan must specify the manner in which the requisite information is objectively measured, collected, and analyzed. The review plan must specify how often the program gathers the information and document the actions taken in response to the information.

**INCORPORATION BY REFERENCE:** Part 2965.0020, subpart 19: "Paraphilia" a psychosexual disorder as described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association in 1994. Available through the Minitex interlibrary loan system. Part 2965.0160, subpart 2: Current standards and principles of practice published by the American Polygraph Association (Chattanooga, Tennessee, August, 1998), and the current ethical standards and principles for the use of physiological measurements and polygraph examinations of the Association for the Treatment of Sexual Abusers (Beaverton, Oregon, August, 1998); subpart 3: Current ethical standards and principles for the use of physiological measurements and plethysmograph examinations of the Association for the Treatment of Sexual Abusers (Beaverton, Oregon, August, 1998). Available through the Minitex interlibrary loan system.

### Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§ 14.05-14.28 have been met and five working days after the rule is published in the *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.

#### Exempt Rules

An exempt rule adopted under *Minnesota Statutes* §§ 14.386 or 14.388 is effective upon its publication in the *State Register*.

#### Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

## Department of Commerce

### Adopted Permanent Rules Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities

The rules proposed and published at *State Register*, Volume 22, Number 52, pages 2337-2339, June 29, 1998 (22 SR 2337), are adopted with the following modifications:

#### 2752.0020 INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS.

Subp. 2. **Approved table for annuity or pure endowment contract issued on or after ~~October 1, 1998~~ January 1, 1999.** Except as provided in subpart 3, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after ~~October 1, 1998~~ January 1, 1999.

Subp. 3. **Approved table for annuity or pure endowment contract based on life contingencies issued to fund periodic benefits.** The 1983 Table "a" without projection is to be used for determining the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after ~~October 1, 1998~~ January 1, 1999, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

#### 2752.0030 GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS.

Subp. 2. **Approved table for annuity or pure endowment purchased on or after ~~October 1, 1998~~ January 1, 1999, under a group annuity or pure endowment contract.** The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after ~~October 1, 1998~~ January 1, 1999, under a group annuity or pure endowment contract.

**EFFECTIVE DATE.** Parts 2752.0010 to 2752.0040 are effective ~~October 1, 1998~~ January 1, 1999.

## Board of Medical Practice

### Adopted Permanent Rules Relating to Respiratory Care Fees

The rules proposed and published at *State Register*, Volume 22, Number 31, pages 1343-1344, February 2, 1998 (22 SR 1343), are adopted as proposed.

## Department of Revenue

### Adopted Permanent Rules Governing the Aggregation of Capital Gains and Losses of a Unitary Business

The rules proposed and published at *State Register*, Volume 22, Number 50, pages 2199-2202, June 15, 1998 (22 SR 2199), are adopted with the following modifications:

#### **8019.0500 UNITARY BUSINESS: AGGREGATION OF CAPITAL GAINS AND LOSSES.**

Subpart 1. **General information.** *Minnesota Statutes*, section 290.17, subdivision 4, provides that if a trade or business conducted wholly within this state, or partly within and partly without this state, is part of a unitary business, the entire income of the unitary business is subject to apportionment under *Minnesota Statutes*, section 290.191. *Minnesota Statutes*, section 290.17, subdivision 4, further provides that none of the income of a unitary business is considered to be derived from any particular source, and none may be allocated to a particular place, except as provided by the applicable apportionment formula. In accordance with the unitary business principle, the aggregation of capital gains and capital losses is permitted or required in combined reporting as follows: for open taxable years beginning after December 31, 1986, and ending on or before the effective date of this part, corporations may file claims for refund in accordance with this part under *Minnesota Statutes*, section 289A.40, in effect for the year of the claims; and for taxable years beginning after the effective date of this part, capital losses must be aggregated with capital gains.

Subp. 2. **Definitions.** For purposes of this part, the following terms have the meanings given them:

C. "Change in ownership" means the sale or transfer of voting stock, that is either directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, of a member of a combined group, which results in ~~less than~~ 50 percent or less of the voting stock of the member being owned by the previous common owner, or common owners who had owned more than 50 percent of such stock prior to the sale or transfer.

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## Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* §§ 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* §§ 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only.

The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

## Department of Corrections

### Adopted Exempt Permanent Rules Relating to Corrections; Office of Adult Release

#### 2940.0100 DEFINITIONS.

[For text of subs 1 to 7, see M.R.]

Subp. 8. **Executive officer of adult hearings and release.** “Executive officer of adult hearings and release” means the person to whom the commissioner of corrections has delegated the authority for granting parole and work release; for revoking parole, work release, and supervised release; and for granting discharge from an indeterminate sentence.

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

Subp. 11. [See repealer.]

[For text of subs 12 to 14, see M.R.]

Subp. 15. [See repealer.]

[For text of subs 16 to 29, see M.R.]

Subp. 30. [See repealer.]

[For text of subs 31 to 34, see M.R.]

#### 2940.0200 PURPOSE.

The purpose of this chapter is to establish the policies, procedures, rules, regulations, and guidelines which will govern the operation of the office of adult hearings and release unit established within the Department of Corrections by the commissioner in order to discharge the responsibilities established by law.

#### 2940.0300 ADMINISTRATION.

For the purpose of coordinating, monitoring, and assuring uniformity and objectivity in the decisions of parole, supervised release, and work release, the commissioner has established the office of adult hearings and release unit and appointed an executive officer of adult hearings and release. The commissioner has delegated to the executive officer of adult hearings and release the authority to grant parole and work release; to revoke parole, work release, and supervised release; to discharge persons under indeterminate sentences; and to approve the conditions of parole, work release, and supervised release.

The executive officer of adult hearings and release shall be independent from the administration of the institutions and community services division ~~and shall report directly to the commissioner.~~

One or more Department of Corrections staff approved by the commissioner may assist the executive officer of adult hearings and release in carrying out the officer’s responsibilities.

#### 2940.0400 EXECUTIVE OFFICER OF ADULT HEARINGS AND RELEASE.

The executive officer of adult hearings and release shall have the authority, under the guidelines prescribed in this chapter, with the exception of those inmates under life sentences, to:

- A. grant parole and work release and discharge inmates with indeterminate sentences;

B. approve or modify conditions of parole, or supervised release; ~~or work release~~ as developed by the ~~case management~~ program review teams;

[For text of items C to G, see M.R.]

**2940.0600 TEAM FUNCTIONS.**

A program review team shall perform the following functions regarding each inmate:

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

- I. develop conditions of parole or supervised release jointly with the inmate's assigned field agent; and
- J. conduct reentry reviews; ~~and~~
- ~~K. make recommendations regarding the transfer of youthful offenders to adult status.~~

**2940.0700 PLANS.**

All needs assessments, program, and projected release plans must be in writing and the central office file copy must be forwarded to the ~~office of adult hearings and~~ release unit for informational purposes. All conditions of parole or supervised release shall be imposed by the executive officer of ~~adult hearings and~~ release.

**2940.0800 NEEDS ASSESSMENTS, PROGRAM, AND PROJECTED RELEASE PLANS.**

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Developed by team.** The needs assessment, program plan, and projected release plan shall be developed by the program review team, and the central office copy shall be forwarded to the ~~office of adult hearings and~~ release unit for information purposes.

**2940.0900 PROGRESS REVIEWS.**

[For text of subparts 1 and 2, see M.R.]

Subp. 3. **Copies forwarded.** The central office copy of the inmate's progress reviews shall be forwarded to the ~~office of adult hearings and~~ release unit for information purposes.

**2940.1000 WORK RELEASE FOR PRERELEASE PURPOSES.**

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

Subp. 2. **Recommendations reviewed.** The recommendations of the program review teams shall be reviewed by the executive officer for granting prerelease status. The executive officer of ~~adult hearings and~~ release shall make the decision to grant or deny work release status for placement in the prerelease program.

**2940.1100 WORK RELEASE.**

Applications for work release must be forwarded to the director of work release for approval. If approved by the director of work release, the application must be considered by the program review team. If approved by the program review team, the recommendation of the program review team must be reviewed by the executive officer of ~~adult hearings and~~ release for the granting or denial of work release.

**2940.1300 FINAL PLAN RECOMMENDATIONS.**

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

Subp. 2. **Final decision.** The executive officer of ~~adult hearings and~~ release shall make the final decision regarding the conditions of parole, supervised release, or work release, with the exception of those inmates under life sentences.

**2940.1500 INMATES WITH INDETERMINATE SENTENCES.**

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

Subp. 2. **Review of release dates.** Incarcerated inmates with indeterminate sentences governing their release dates which were established prior to July 1, 1982, shall be handled as follows in items A to C.

[For text of item A, see M.R.]

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B. Special reviews for the purpose of modifying release dates established by the Minnesota corrections board shall be considered by the executive officer of adult hearings and release for the following reasons:

(1) correcting mathematical, data entry, or computational errors; and

(2) ~~sentence change caused by modification in the computation of the "Minnesota Corrections Board Parole Decision-Making Guidelines"; and~~

(3) policy changes established by the commissioner which affect the term of imprisonment.

C. The program review team shall determine if the criteria for a special review have been met. If the criteria have been met, the program review team shall forward the information and a recommendation to the executive officer of adult hearings and release. The executive officer of adult hearings and release shall make the final decision regarding the requested adjustment in the release date.

Subp. 3. **Application of guidelines.** Minnesota sentencing guidelines policies and procedures must be utilized in determining the term of imprisonment and projected release date of each inmate with an indeterminate sentence whose new admission review occurs after July 1, 1982.

The criminal history score shall be based on the inmate's status on the date the indeterminate offense occurred.

[For text of items A and B, see M.R.]

C. The only misdemeanor, gross misdemeanor, or felony convictions which shall be utilized to compute the criminal history score shall be those for which the offender had received a stayed or imposed sentence prior to the date on which the indeterminate offense occurred.

The program review team shall complete a Minnesota sentencing guidelines worksheet on such inmates and forward the worksheet to the executive officer of adult hearings and release for approval. If the program review team recommends departure from the guidelines grid, the written reasons for the departure must accompany the worksheet.

### **2940.1600 GOOD TIME LOST; EXTENSION OF TERM OF IMPRISONMENT.**

All inmates shall be subject to the loss of good time or extension of term of imprisonment for institutional disciplinary infractions as follows in items A to E.

[For text of items A and B, see M.R.]

C. All inmates with guidelines sentences shall have their supervised release date extended by one day for each day of good time lost or disciplinary confinement time added.

[For text of items D and E, see M.R.]

### **2940.1800 INMATES WITH LIFE SENTENCES.**

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

Subp. 2. **Duties of panel.** The advisory panel shall review each inmate who is serving a life sentence three years prior to the inmate's parole or supervised release eligibility date in order to establish a projected release date or a future review date. The advisory panel shall assist the commissioner in thoroughly considering the inmate's entire case history, including the facts and circumstances of the offense for which the life sentence is being served; past criminal history, institutional adjustment, program team reports, psychological and psychiatric reports where pertinent; and the results of community investigations.

The program review team of the inmate's residence shall prepare appropriate reports and recommendations as requested by the institution superintendent or warden.

[For text of subp 3, see M.R.]

Subp. 4. **Duties of officials.** The commissioner may initiate inquiries and take testimony as authorized by *Minnesota Statutes*, section 243.05.

The executive officer of adult hearings and release shall assist the commissioner in interviewing interested parties and prepare a summary of community input for presentation to the advisory panel.

During the deliberative process only members of the advisory panel shall be present unless determined otherwise by the commissioner.

[For text of subp 5, see M.R.]

### **2940.2300 APPROVAL OF CONDITIONS OF RELEASE.**

All conditions of parole or supervised release shall be subject to the approval of the executive officer of adult hearings and release.

**2940.2700 RESTRUCTURE OF CONDITIONS OF PAROLE OR SUPERVISED RELEASE.**

Subpart 1. **Request by offender.** Offenders on parole or supervised release may at any time during their term of release request that the standard or special conditions of release be modified. Their request must be made in writing through their supervising agent who shall submit the request and the supervising agent’s recommendation to the ~~office of adult hearings and~~ release unit within ten days of its receipt. The executive officer of ~~adult hearings and~~ release shall review the request and respond in writing within 30 days of the receipt of the request for the modification of the standard or special conditions of release.

[For text of subp 2, see M.R.]

Subp. 3. **Granting of modification.** The executive officer of ~~adult hearings and~~ release may authorize the supervising agent to modify the standard or special conditions of release or cause the releasee to be brought before the executive officer of ~~adult hearings and~~ release for a review of the matter of modification. Any modification of the standard or special conditions of release shall be in writing and executed with the same formality as the original conditions.

**2940.2800 WORK RELEASE STATUS.**

Subpart 1. **Participation.** Participation in the work release program is voluntary on the part of the inmate. Consideration for work release status shall be given to those offenders who have met the Department of Corrections eligibility requirements, have been accepted by the director of work release and recommended by the program review team. The executive officer of ~~adult hearings and~~ release shall make the decision for the granting or denial of work release.

Subp. 2. **Violations; revocations.** All violations of work release rules shall be handled according to the approved discipline plan. Revocation of work release status shall be the decision of the executive officer of ~~adult hearings and~~ release after an appropriate due process hearing.

**2940.3100 WARRANTS; FORMAL RECOMMENDATION REQUIREMENT.**

At any time the releasee is prepared to make bail or has been sentenced by the court, the supervising agent shall submit a written formal recommendation to the executive officer of ~~adult hearings and~~ release regarding whether to:

[For text of items A and B, see M.R.]

**2940.3200 ISSUANCE OF WARRANTS.**

The executive officer of ~~adult hearings and~~ release shall have the authority to issue nationwide or statewide warrants on a case-by-case basis in accordance with the procedures in items A to D.

A. After consultation with his or her supervisor, the supervising agent shall submit a violation report to the executive officer of ~~adult hearings and~~ release who shall make the final decision regarding the issuance of a warrant.

B. In emergency situations the supervising agent shall request authorization for the warrant by telephone. The supervising agent shall call the ~~office of adult hearings and~~ release unit and provide the necessary information for warrant authorization.

C. Upon approval of the emergency warrant, the ~~office of adult hearings and~~ release unit shall provide the fugitive unit with the necessary information, and instruct the fugitive unit to issue the warrant.

D. If an emergency warrant is issued, a written violation report must be received by the office of adult release within five working days.

**2940.3300 OTHER ORDERS.**

The executive officer of ~~adult hearings and~~ release shall have the authority to issue orders revoking parole, supervised release, or work release; to stop the time from running on the sentences of releasees who have absconded, and to start the running of the time on the inmate’s sentence.

**2940.3500 REVOCATION HEARING.**

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

Subp. 2. **When held.** All revocation or separate probable cause hearings must be held within ~~15~~ 12 working days of the releasee’s availability to Department of Corrections.

**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.

## Exempt Rules

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Subp. 3. **Outside metropolitan area.** Outside the metropolitan area, as defined by *Minnesota Statutes*, section 473.121 revocation or separate probable cause hearings shall be conducted by a Department of Corrections district supervisor other than the supervising agent's supervisor. In cases of special need the executive officer of adult hearings and release may conduct the revocation or separate probable cause hearings outside the metropolitan area.

Subp. 4. **Within metropolitan area.** Within the metropolitan area the hearings shall be conducted by the executive officer of adult hearings and release.

### **2940.3700 ACTIONS.**

If the executive officer of adult hearings and release or a district supervisor finds that releasees are in violation of their parole, work release, or supervised release, the following actions may be taken:

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

### **2940.3800 REIMPRISONMENT.**

Offenders who have violated the conditions of parole or supervised release and who have been returned to institutional status shall be assigned a release date and a term of reimprisonment, as follows:

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

D. depending on the time remaining to be served on the sentence, the type of violation, and the needs of the offender, up to expiration of the sentence may be assigned as the term of reimprisonment if there is a finding of risk to the public or if repeated violations of the conditions of release occur and the releasee is determined to be unamenable to supervision by the executive officer of adult hearings and release.

The term of reimprisonment under items A to C may be either concurrent or consecutive to incarceration time imposed by a court of law and served locally.

### **2940.3900 REVOCATION PROCEDURES; INVESTIGATION AND REPORT.**

Supervising agents shall investigate all alleged violations of release and after consultation with their supervisor determine whether grounds exist to begin revocation procedures. If grounds are found to exist justifying the initiation of revocation procedures, a violation report must be submitted to the executive officer of adult hearings and release together with a recommendation as to the issuance of a warrant directing the apprehension and detention of the releasee pending a hearing.

### **2940.4000 EMERGENCY SITUATIONS.**

In emergency situations supervising agents after consultation with their supervisor, may call the office of adult hearings and release unit to request an emergency warrant. The procedure indicated in parts 2940.3000 to 2940.3400 governs the issuance of emergency warrants.

### **2940.4200 DUTIES OF SUPERVISING AGENT.**

Upon receipt of the notice to begin revocation proceedings, the supervising agent shall have the duties in items A to F.

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

E. If the releasee requests a revocation hearing, the supervising agent shall call the office of adult hearings and release unit to coordinate a date and time for the hearing.

F. Upon receiving the date and time for the hearing, the supervising agent shall prepare a notice of hearing form, make six copies of the rules of release, six copies of any written evidence, and distribute one set of each according to the distribution indicated on the notice of revocation hearing form.

If the releasee is in custody pursuant to a warrant issued by the office of adult hearings and release unit, the hearing shall be held within 15 working days immediately after detention, unless good cause is shown for a continuance. At the time notice is given to the releasee, notice shall be sent to the State Public Defender or private counsel.

### **2940.4300 REVOCATION HEARING.**

The revocation hearing shall be held near the site of the alleged violation, and conducted by the executive officer of adult hearings and release or a district supervisor who does not directly supervise the supervising agent alleging the violation. If parole, supervised release, or work release is revoked, the releasee shall be imprisoned in a place determined by the commissioner. Releasees may admit the alleged violations any time prior to the hearing. The admission must be in writing, and releasees must have been notified of the consequences of their admission, including that they may be returned to a correctional facility for a term of imprisonment specified by the executive officer of adult hearings and release or a district supervisor.

**2940.4400 WARRANTS.**

Subpart 1. **General requirement.** Unless taken into custody by a supervising agent under the authority of *Minnesota Statutes* 1983 Supplement, section 243.05, a releasee shall not be taken into custody unless a warrant is issued by the executive officer of ~~adult~~ hearings and release.

[For text of subp 2, see M.R.]

Subp. 3. **Absconding from supervision.** Warrants may be issued in all cases where a releasee has absconded from supervision. Issuance of warrant under these circumstances and the revocation of parole, supervised release, or work release shall stop the time from running on the sentence until the releasee is returned to custody. In all cases where a releasee is returned from out of state, whether by extradition proceedings or waiver of extradition, the hearing shall be held at a location determined by the executive officer of ~~adult~~ hearings and release.

**2940.4500 FAILURE TO APPEAR.**

Failure of a releasee to appear at a revocation or probable cause hearing after having been duly notified will result in the issuance of a warrant for their apprehension and detention and return to custody pending a hearing at a place to be determined by the executive officer of ~~adult~~ hearings and release.

**REPEALER.** *Minnesota Rules*, parts 2940.0100, subparts 11, 15, and 30; 2940.4600; 2940.4700; 2940.4800; 2940.4900; 2940.5000; 2940.5100; 2940.5200; 2940.5300; 2940.5400; 2940.5500; and 2940.5600, are repealed.

## Department of Labor and Industry

### Adopted Exempt Permanent Rules Relating to Occupational Safety and Health; Adoption of Federal Standards by Reference

The rules proposed and published at *State Register*, Volume 23, Number 3, pages 202-205, July 20, 1998 (23 SR 202), are adopted as proposed.

**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.

# ERRATA

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## Department of Natural Resources

### CORRECTION OF DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received

**Proposed Amendment to Rules Governing Parks and Trails; Public Use of State Parks and Other Recreational Areas, Minnesota Rules, parts 6100.0100 to 6100.2400.**

The Dual Notice for the amendment to rules governing public use of state parks and other recreational areas was published in the *State Register* on October 5, 1998. The dual notice left out the date for the rule hearing in Brainerd. If 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on November 5, 1998, a public hearing will be held at the Kelly Inn, 161 Saint Anthony Street, Saint Paul, Minnesota 55103, starting at 1:00 p.m. on Monday, December 7, 1998, and on Tuesday, December 8, 1998 at the Washington Middle School, Tornstrom Auditorium, 804 Oak Street, Brainerd, Minnesota 56401, starting at 4:30 p.m. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after November 5, 1998, and before December 7, 1998.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Steve Simmer, Forest Recreation Program Coordinator, at Department of Natural Resources, Division of Forestry, Box 44, 500 Lafayette Road, Saint Paul, Minnesota 55115-4044, telephone (651) 297-3508, FAX (651) 296-5954. TTY users may call the Department of Natural Resources at 1-800-657-3929.

## Official Notices

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Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

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

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## Department of Agriculture

### Agronomy and Plant Protection Division

#### Request for Comments on Planned Rules Governing Noxious Weeds

**Subject of the Rule.** The Minnesota Department of Agriculture requests comments on its planned amendments to rules governing noxious weeds. The department is considering amendments that add two new lists of noxious weeds and establishes a uniform process for the selection of plant species designated as noxious.

**Persons Affected.** The rules would likely affect land owners, land managers and business that sell seeds and plants. The department does contemplate appointing an advisory committee to comment on the planned rules.

**Statutory Authority.** *Minnesota Statutes*, section 18.79, subd.4 allows the commissioner to adopt rules for the proper enforcement of *Minnesota Statutes*, sections 18.76 to 18.88, the noxious weed law.

**Public Comment.** Interested persons or groups may submit comments or information on the planned rules in writing or orally until 4:30 p.m. on December 11, 1998. The department has prepared a draft of the planned amendments. Written or oral comments, questions, requests to receive a draft proposed rules, and requests for more information on the planned rules should be addressed to: Charles Dale Minnesota Department of Agriculture, 90 W. Plato Blvd., St. Paul, MN 55107: Phone (651) 296-6123, FAX (651) 297-2271. TTY users may contact the Department of Agriculture through Minnesota Relay Service at 1-800/627-3529.

**Comments submitted in response to this notice will not be included in the formal rulemaking record when a proceeding to adopt a rule is started.**

Dated: 1 October 1998

Sharon Clark  
Deputy Commissioner



## Department of Agriculture

### Dairy and Food Inspection Division

#### Request for Comments on Planned Rules Governing Plan Review Fees

**Subject of the Rule.** The Minnesota Department of Agriculture requests comments on its planned amendment to rules governing retail food store construction plan review fees. The department is considering amendments that add fee categories, lowers some fees and raises others.

**Persons Affected.** The rules would likely affect retail food store operators. The department does not contemplate appointing an advisory committee to comment on the planned rules.

**Statutory Authority.** *Minnesota Statutes*, section 31.11, subp. 2, requires the commissioner to set plan review fees by rule that will approximate the cost of the review to the department.

**Public Comment.** Interested persons or groups may submit comments or information on the planned rules in writing or orally until 4:30 p.m. on December 11, 1998. The department has not prepared a draft of the planned amendments. Written or oral comments, questions, requests to receive a draft proposed rules, and requests for more information on the planned rules should be addressed to: Lorna Girard, Compliance Officer Supervisor, Dairy and Food Inspection Division, Minnesota Department of Agriculture, 90 W. Plato Blvd., St. Paul, MN 55107: Phone (651) 296-1590, FAX (651) 297-5637. TTY users may contact the Department of Agriculture through Minnesota Relay Service at 1-800-627-3529.

**Comments submitted in response to this notice will not be included in the formal rulemaking record when a proceeding to adopt a rule is started.**

Dated: 22 September 1998

Sharon Clark  
Deputy Commissioner

## Departments of Human Services, Health and Public Safety

#### Request for Comments on Planned Amendments of the Rules of the Minnesota Merit System Governing Definitions, Establishment of Registers, Certification of Eligibles, Salary Adjustments and Increases, The Compensation Plan, Appointments from Registers, Provisional Appointments, Temporary Appointments, Duration of the Probationary Period, Extension of the Probationary Period, Completion of the Probationary Period, Interagency Operations/Cooperation with Merit System Agencies, and Appeal of Denial of a Merit Increase (*Minnesota Rules*, parts 9575.0010, 9575.0350, 9575.0550, 9575.0620, 9575.0650, 9575.0660, 9575.0680, 9575.0730, 9575.0740, 9575.0790, 9575.1280, 9575.1500, 4670.0100, 4670.1320, 4670.2000, 4670.2300, 4670.2500, 4670.2510, 4670.2530, 4670.2620, 4670.2630, 4670.2680, 4670.2690, 4670.3540, 4670.3800, 4670.4200-4670.4240, 7520.0100, 7520.0650, and 7520.1000-7520.1100)

**Subject of Rule.** The Departments of Human Services, Health, and Public Safety are considering rule amendments pertaining to the operation of the Merit System that: 1) provide new language which authorizes the appointment of temporary unclassified employees, 2) increase the length of the probationary period for supervisory and managerial employees and give appointing authorities the flexibility to decide on the length of the probationary period in instances in which the appointing authority has an established policy, 3) amend the number of individuals referred from competitive and promotional registers and allow the merit system to establish a list of employees who wish to transfer from one appointing authority to another, 4) provide appointing authorities with increased flexibility in making provisional appointments, 5) provide appointing authorities with additional time to submit notification of probationary period completion to the Merit System, 6) provide a 1999 salary adjustment for employees covered by the Minnesota Merit System, and 7) amend the salary ranges in the compensation plan for 1999. Other amendments to the rules covering definitions, appointment from registers, salary adjustments and increases, interagency operations/cooperation with merit system agencies and appeal of denial of a merit increase are proposed to update language or repeal unnecessary language.

## Official Notices

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**Persons Affected.** The amendments to the rules would affect employees of the county human services, social services, health and emergency management agencies covered by the Minnesota Merit System. Rule amendments to the compensation plan and salary adjustments and increases would affect only those employees of county human services, social services, health, and emergency management agencies who are not covered by the terms of collective bargaining agreements. The departments do not contemplate appointing an advisory committee to comment on the planned rules.

**Statutory Authority.** *Minnesota Statutes*, sections 256.012, 144.071, and 12.22, subd. 3 authorize the departments to adopt rules to provide local and county appointing authorities with an effective system of personnel administration based on merit principles.

**Public Comment.** Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on Monday, December 14, 1998. The departments do not anticipate that a draft of the rule amendments will be available before the publication of the proposed rules. Written or oral comments, questions, requests to receive a draft of the rules when they have been prepared, and requests for more information on the planned rules should be addressed to:

Betty Carlson  
Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55155-3822  
Telephone: (651) 282-2649

Dated: 5 October 1998

David S. Doth  
Commissioner  
Department of Human Services

Anne Barry  
Commissioner  
Department of Health

Arne H. Carlson  
Governor

## Department of Public Service

### Request for Comments on Planned Amendment to Rules Governing the Minnesota Energy Code, *Minnesota Rules*, Chapter 7672

**Subject of Rules.** The Minnesota Department of Public Service requests comments on its planned amendment to rules governing portions of the Energy Code for one- and two-family residential buildings. The Energy Code (Chapter 7672), a part of the State Building Code, was adopted in June, 1998. Chapter 7672 will become effective on July 20, 1999. The Department is considering rule amendments which will improve coordination of Chapter 7672 with the rest of the State Building Code. Potential amendments under consideration by the Department would clarify some applicability provisions and other provisions of Chapter 7672 to aid enforcement. Changes the Department is considering may relax some requirements and may make others more stringent. While amendments may affect the entire Chapter, the most likely changes would relate to protection against depressurization (7672.0900, subpart 8), and residential ventilation systems (part 7672.1000). For example, amendments are being considered to the Options for Compliance table (7672.0900, subpart 8, item B) regarding reference to and wording of footnotes.

**Persons Affected.** The amendment to the rules would likely affect home builders, heating and ventilating contractors, the hearth products industry, building code inspectors, and new home buyers.

**Statutory Authority.** This rule is authorized by *Minnesota Statutes* §§ 216C.19, subdivision 8, 216C.195, and 16B.165.

**Public Comment.** Interested persons or groups may submit comments or information on these planned rules in writing until further notice is published in the *State Register* that the Department intends to adopt or withdraw the rules. A Mechanical Code Advisory Committee appointed by the Department of Administration, Building Codes and Standards division has expressed interest in amendments to Chapter 7672. The Department does not contemplate appointing an advisory committee to comment on the planned rules.

**Rules Drafts.** The Department has not yet prepared a draft of the planned rules amendments.

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these planned rules should be addressed to: Bruce Nelson, Senior Engineer, Department of Public Service, 121 East 7th Place, Suite 200, St. Paul, MN 55101, phone (651) 297-2313, FAX (651) 297-1959, e-mail [bnelson@dpsv.state.mn.us](mailto:bnelson@dpsv.state.mn.us).

**Alternative Format.** Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Note:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 2 October 1998

Krista L. Sanda, Commissioner

## Department of Transportation

### Petition of the City of Duluth for a variance from State Aid requirements for BRIDGE WIDTH AND DESIGN SPEED

**NOTICE IS HEREBY GIVEN** that the City of Duluth 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 bridge rehabilitation project on Municipal State Aid Street No. 140 (Lake Avenue South), between 140' South of Morse Street to North of 8th Street in the City of Duluth, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9920 and 8820.9936, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 7.32 meter bridge width on the Aerial Lift Bridge and a Design Speed of 30 km/h on the approaches to such bridge; in lieu of the required 7.8 meter bridge width and 50 km/h design speed.

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: 30 September 1998

Patrick B. Murphy  
Division Director  
State Aid for Local Transportation

# State Grants & Loans

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In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

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## Department of Health

### Public Hearing Regarding the Minnesota Department of Health Application to the Federal Department of Health and Human Services for Federal Fiscal Year 1999 Preventive Health and Health Services Block Grant Funding

The Minnesota Department of Health will sponsor a public hearing to obtain comment on its application for federal fiscal year 1999 Preventive Health and Health Services Block Grant funds. The draft application for those funds is available for inspection upon request.

The public hearing will be conducted as part of a meeting of the State Preventive Health Advisory Committee held Monday, October 19, 1998 at the Minnesota Department of Health, Metro Square Building, 121 E. Seventh Place, St. Paul, Minnesota. The public hearing and meeting will begin at 2:00 p.m. in the Lower Level Meeting Room 56. Any person or group may submit either written or oral comments at the meeting.

Written comments may be submitted by October 19, 1998 to the address below.

For further information contact:

Debra Burns, Section Manager  
Health Systems Development  
Minnesota Department of Health  
121 E. Seventh Place  
P.O. Box 64975  
St. Paul, Minnesota 55164-0975  
(651) 296-8209

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# Professional, Technical & Consulting Contracts

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

In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of up to 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612) 296-2600 or [TTY (612) 297-5353 and ask for 296-2600].

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## Colleges and Universities, Minnesota State (MnSCU)

### Century Community and Technical College

#### Notice of Request for Proposals for Consulting Services to Develop a Master Academic Plan

Century College is seeking the services of a consulting team to develop a comprehensive Master Academic Plan. The purpose of the plan is to provide the college with guidelines for offering an array of academic courses and programs through a variety of delivery methods designed to provide students with state-of-the-art educational opportunities.

The plan should address technical / vocational and liberal arts offerings and the needs of today's workforce, competition from other educational institutions and business / industry, and the cost of providing the necessary technology and equipment required to continue remaining current. The plans should also address certain student support services as they relate to student needs.

The Master Academic Plan will act as the guideline for developing a Master Facility Plan defining current and future space needs. Both plans are needed to support future capital requests to the Legislature.

This request for proposals does not obligate Century College, a member of Minnesota State Colleges and Universities (MnSCU), to complete the proposed project. Century College reserves the right to cancel the solicitation if it is considered to be in its best interest. Responders may propose additional tasks or activities if they will substantially improve the results of the project.

For copies of the full Request for Proposals, contact:

Gail Westby, Dean  
Planning and Administrative Services  
Century College  
3300 Century Avenue North  
White Bear Lake, MN 55110  
(651) 779-3344

Other personnel are **NOT** allowed to discuss the request for proposal with anyone, including responders, before the proposal submission deadline.

All proposals must be sent to:

Attn: Pat Schorr, Business Office  
Main Building, West Campus  
Century College  
3300 Century Avenue North  
White Bear Lake, MN 55110

Proposals must be received no later than Tuesday, October 27, 1998, at 2:00 PM. Late proposals will not be accepted.



### Minnesota Forest Resources Council

Minnesota Department of Natural Resources, Division of Forestry - Fiscal Agent

#### Notice of Request for Proposals for the Public Concerns Registration Process

**NOTICE IS HEREBY GIVEN** that the Minnesota Forest Resources Council (MFRC) is requesting proposals to perform all necessary duties associated with implementation of its Public Concerns Registration Process (PCRP). The PCRP was established to provide an opportunity for citizens to register concerns and receive information on specific timber harvesting and forest management practices throughout the state. Information gathered through the process will provide the MFRC with a better understanding of public concerns over timber harvesting and forest management practices, as well as provide input into future natural resource professional and timber harvesting education and training programs.

Services needed by the Minnesota Forest Resources Council include, but are not limited to: contacting the citizen, the logger, the landowner and any other involved parties to verify their identification and the timber harvesting site location; gathering information about the concern in question; sending educational materials to individuals associated with the concern and encouraging communication between all parties; following up and maintaining contact with the individuals in questions; communicating with the Minnesota Logger Education Program; and writing summary reports to document all registered concerns and the outcome of efforts.

Proposals are due on October 26, 1998

To obtain a copy of the complete Request for Proposal, contact:

Sara Eliason  
Minnesota Forest Resources Council  
NRAB 35a  
2003 Upper Buford Circle  
St. Paul, MN 55108  
(651) 603-0109  
e-mail: [seliason@forestry.umn.edu](mailto:seliason@forestry.umn.edu)

## Department of Natural Resources

Division of Forestry

#### Notice of Request for Proposals for Preparation of Forest Legacy Program Assessment of Need and Plan

**NOTICE IS HEREBY GIVEN** that the Department of Natural Resources through its Division of Forestry is requesting proposals to prepare a plan that assesses the need and usefulness of conservation easements on privately owned land in the forested areas of Minnesota. Where easements could be beneficial, the plan must also delineate and prioritize areas that would benefit the most. Maps are an important part of the product.

The final product must be a camera-ready paper copy of the plan including maps. It must also be provided in an electronic format to be mutually agreed upon. Allow for two reviews of plan drafts followed by the (not-reviewed) final copy.

Up to \$13,000 is available to fund a proposal. The proposer will be granted flexibility to achieve the desired outcome. A review team will assist the proposer. The final product is expected to be completed no later than September 1, 1999.

A higher education degree in a natural resource science such as forestry or ecology is required. Geographic Information System (GIS) capability and technical writing skills are required.

Proposals due by October 19, 1998. To obtain a copy of the Request for Proposal, please contact:

Sharon Schmitz  
DNR-Forestry  
500 Lafayette Road  
St. Paul, MN 55155-4044  
(651) 297-7298

## Department of Public Safety

### Office of Communications

#### Notice of Request for Proposals for Creative Professional Services for 1999 Motorcycle Safety Public Information and Education Campaign

The Minnesota Department of Public Safety's (DPS) Office of Communications is issuing a contract for creative professional services for assistance in producing concepts for print and electronic media on the hazards of riding motorcycles while impaired. A detailed description of the contractor's responsibilities is outlined in the Requests for Proposals which may be obtained by contacting Fancy Trice at the address or phone number below.

**Contact:** Fancy Trice  
**Telephone:** (651) 297-1765  
**TTY:** (651) 282-6555  
**Address:** Office of Communications  
Minnesota Department of Public Safety  
444 Cedar Street, Suite 155, Town Square  
St. Paul, MN 55101-5155

This is the only person designated to answer questions regarding this request for proposals. Estimated total cost of the contract is \$55,000.00. Final date for submitting proposals is 1:00 p.m. on Friday, October 30, 1998.

## Department of Transportation

#### Notice of a Request for Proposal for Professional/Technical Services that Provide Equipment, Installation, and Training of Computer-Aided Dispatch Software and Automatic Vehicle Location Technology

The State of Minnesota, acting through the Minnesota Department of Transportation (Mn/DOT), seeks the services of a contractor to provide equipment, installation, and training of computer-aided dispatch software and automatic vehicle location technology for a system test in the metro area. The system test will run from December 1, 1998 to April 1, 1999. Four to six maintenance vehicles will be equipped with portable mobile data terminals for the test.

RESPOND BY: November 2, 1998  
RESPOND TO: Sean Delmore  
Mn/DOT  
(651) 296-8602  
FAX: (651) 215-0409

Dated: 6 October 1998

# Non-State Public Bids, Contracts & Grants

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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.

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## Metropolitan Council

### Notice of Request for Proposals (RFP) for Metro Mobility Agency Transportation

The Metropolitan Council is requesting proposals for turnkey purchase of service operation under contract to the Council to agencies located in Hennepin and Ramsey Counties. Successful contractors will provide, at revenue hourly rate: vehicles, labor to operate the service including drivers, dispatchers, and administration; a site/location with maintenance and administrative facilities; insurance coverage meeting minimum state requirements; performance bond equating to 10 percent of the proposed value; and PASS software by Trapeze as well as hardware to operate the software.

A tentative schedule for contractor selection is:

Receive Letters of Interest	October 1998
Issue Request For Proposals	October 1998
Receive Proposals	November 1998
Evaluate and Rank Proposals	December 1998
Metropolitan Council Authorization	February 1999
Contract Negotiated, Executed, NTP Issued	March 1999
Contract Start	July 5, 1999

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Administrative Assistant, Contracts and Documents Unit  
Metropolitan Council  
230 East Fifth Street  
Mears Park Centre  
St. Paul, MN 55101

Letters of Interest may also be submitted to: [jan.bevins@metc.state.mn.us](mailto:jan.bevins@metc.state.mn.us). Inquiries regarding this project should be directed to Steve Kaukola at (651) 602-1064. *Minnesota Statutes*, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

## **PRMM Health System**

### **Notice of Request for Proposals for Professional Administrative and Management Services to a Multi-County Health Care System**

**NOTICE IS HEREBY GIVEN** that the Counties of Big Stone, Douglas, Grant, McLeod, Meeker, Pipestone, Pope, Renville, Stevens and Traverse are undertaking a project whereby they will be responsible for providing health care goods and services to their Medical Assistance (MA) and General Assistance Medical Care (GAMC) populations on a prepaid basis. The term for this new county responsibility is "County-Based Purchasing" (CBP).

In order to facilitate the day-to-day operations of this new prepaid model, the CBP Project is seeking a vendor to provide a wide range of administrative and management functions. This vendor will serve at the direction of the CBP Project's governing board and chief executive officer.

Core responsibilities of the administrative vendor will include: claims processing, information management, and the reporting of claims and quality data. Other services that may be negotiated include: utilization management and review, prior authorization activities, network development, provider relations and regulatory compliance.

The project's enrollee base will be approximately 8,000 to 12,000 persons, and the projected annual budget of the CBP Project is approximately \$28 million. Care delivery is scheduled to begin October 1, 1999 with enrollment to start three months prior.

Responses are due by November 9, 1998. Interested parties should submit a bid on a per member per month rate for the projected cost of delivering the requested services. Full copies of the RFP can be obtained by calling Eric Snyder, project manager, at (320) 523-3491. An informal bidders conference will be also held on October 16th in Minneapolis to provide interested parties an opportunity to dialogue with representatives from the CBP Project. Contact Eric Snyder for details.

## **University of Minnesota**

### **Notice of Bid Information Service (BIS) Available for All Potential Vendors**

The University of Minnesota offers 24 hour/day, 7 day/week access to all Requests for Bids/Proposals through its fax back Bid Information Service (BIS). Subscriptions to BIS are \$75/per fiscal year (not prorated). Call 612-625-5534 for information or visit our web site at <http://purchserv.finop.umn.edu>. Choose BID Information Service.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. - 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls, MN 55454.

## Non-State Public Bids, Contracts & Grants

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### University of Minnesota

Department of Facilities Management

#### Notice of Request for Proposal for Ford Hall Renovation Project (071-98-1171) and Murphy Hall Renovation Project (062-98-1240)

Proposals are being requested by the University of Minnesota, Facilities Management (FM) Department, for **Design-Build Services** for the **Ford Hall and Murphy Hall Renovation Projects**.

Approximately 140,000 gross square feet of space in Ford and Murphy Halls will be renovated and upgraded for the relocation of four departments within the College of Liberal Arts. The focus will be on life safety codes, building accessibility, building systems, repair and replacement, and programmatic requirements.

Preliminary Construction Estimate: \$11,500,000.

**Proposals will be received until 3:00 p.m., local time, October 28, 1998.**

Sealed proposals will be received by the Regents of the University of Minnesota at Facilities Management Purchasing Services, 400 Donhowe Building, 319 - 15th Avenue SE, Minneapolis, Minnesota 55455, until the stated times, when they will be publicly opened and only the names of the responding proposers will be made public. Proposals may be viewed publicly in Purchasing Services after the award has been made and notification given to all respondents.

Copies of the Pre-Design Report for Ford Hall and Murphy Hall are available at the office of Northco Real Estate Services, 4900 Viking Drive, Edina, Minnesota 55435. Any questions before the Pre-Proposal Meeting should be addressed to John Glover, Owner's Representative at (612) 820-1669.

A Pre-Proposal Meeting has been scheduled on **Monday, October 19, 1998, (time and place to be determined)**. While the attendance at the Pre-Proposal Meeting is not mandatory, information presented may be very informative; therefore, all interested parties are encouraged to attend to be better able to prepare acceptable proposals. A site visit will be held in conjunction with this meeting.

Tentative Selection Schedule:

<b>RFP Available for Distribution</b>	<b>October 5, 1998</b>
Pre-Proposal Meeting	<b>October 19, 1998</b>
RFP Responses Due	<b>October 28, 1998</b>
Selection of Shortlisted Finalists	<b>November 2, 1998</b>
Interviews	<b>November 9, 1998</b>

Request for Proposal (RFP) information can be requested from:

John Glover  
Northco Real Estate Services  
4900 Viking Drive  
Edina, MN 55435