

179 Feb. 24

STATE REGISTER



STATE OF MINNESOTA

RULES

PROPOSED RULES

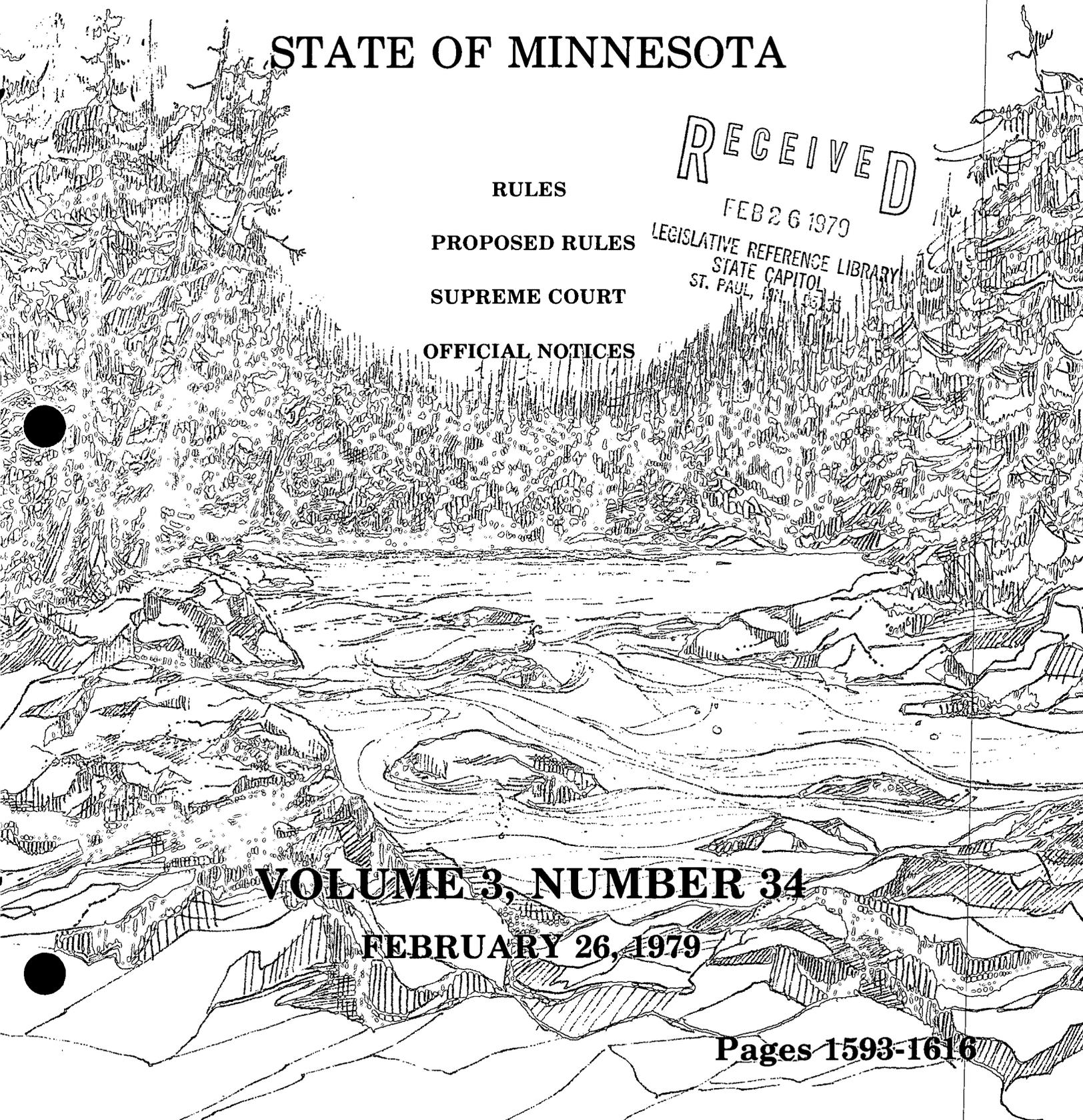
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VOLUME 3, NUMBER 34

FEBRUARY 26, 1979

Pages 1593-1616

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
36	Monday Feb 26	Monday Mar 5	Monday Mar 12
37	Monday Mar 5	Monday Mar 12	Monday Mar 19
38	Monday Mar 12	Monday Mar 19	Monday Mar 26
39	Monday Mar 19	Monday Mar 26	Monday Apr 2

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

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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Public Hearings on Proposed Agency Rules

March 5-9, 1979

Date	Agency and Rule Matter	Time and Place
Mar 6	Dpt. of Agriculture Purchase of Milk on Basis of Protein	7:30 p.m., Sauk Center City Hall, East Mtg. Hall, 405 Sinclair Lewis Ave., Sauk Center, MN
	Hearing Examiner: Howard L. Kaibel, Jr.	
Mar 7	Dpt. of Agriculture Purchase of Milk on Basis of Protein	7:30 p.m., Scott County Courthouse, 428 So. Holmes, Shakopee, MN
	Hearing Examiner: Howard L. Kaibel, Jr.	
Mar 8	Dpt. of Agriculture Purchase of Milk on Basis of Protein	7:30 p.m., Houston County Courthouse, 304 So. Marshall St., Caledonia, MN
	Hearing Examiner: Howard L. Kaibel, Jr.	

MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR §§ 1.472, 1.474-1.475, 1.487, 1.504, 1.509 (adopted)	1596
7 MCAR §§ 1.372 (adopted)	1597
7 MCAR §§ 1.022, 1.032 (proposed)	1603

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department

12 MCAR § 2.160 (adopted)	1597
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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, 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 as proposed 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 strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Health Health Systems Division

Adopted Rules for Changes in Rules for Hospital Rate Review

The rules proposed and published at *State Register*, Volume 3, Number 7, pages 247-267, August 21, 1978 (3 S.R. 247) are adopted as proposed, with the following amendments:

Chapter Twenty-Eight 7 MCAR §§ 1.471-1.511

7 MCAR § 1.472 Definitions.

U. "Rate" means "gross charges" as defined in 7 MCAR § 1.472 G. "Aggregate rate" means the average gross revenue per adjusted admission for a full accounting period determined by dividing total gross revenue by the number of adjusted admissions:

Total Gross Revenue

Number of Adjusted Inpatient Admissions

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Adjusted admissions are determined by:

Number of Outpatient & Emergency Visits	X	Total Outpatient & Emergency Gross Revenue	
		Number of Outpatient & Emergency Visits	
X	<u>1</u>		
Inpatient Gross Revenue Per Admission	PLUS	The Number of Inpatient Admissions	

The aggregate rate for the budget year shall always be based upon annually projected admissions as stated in the rate revenue and expense report.

7 MCAR § 1.475 A.1. The total gross acute charges used shall be for the hospital's 1977 ~~prior~~ fiscal year, pursuant to 7 MCAR § 1.474 B.1.a.; ~~and shall be adjusted to represent a December 31 fiscal year end.~~

B.2.c. The average number of full-time-equivalent employees during each accounting period for the hospital and each service center. An employee or any combination of employees which is reimbursed by the hospital for 2080 hours of employment per year is a full-time-equivalent employee.

B.2.e. The number of outpatient and emergency visits for the hospital.

3.d.(2) Ancillary services (enumerating inpatient, outpatient and emergency).

e. A statement of the accounts receivable by type of purchaser of services:

e. A statement of the accounts receivable in total and of gross revenue by type of payer.

~~D. 1. Aggregate rate and costs and components of aggregate rates and costs have been demonstrated by the hospital to be consistent or inconsistent with the operating expenses found in 7 MCAR § 1.487 A. [1.a.(1), (2), (3), (4), (5)(a)(i)(ii); b.(1)(a)(5), (6)(7); 3., 4.] plus a maximum of 5% of reasonable operating expenses in lieu of 7 MCAR § 1.487A.1.[b.(1)(b), (2), (3), (4), and e.]~~

D.1. Aggregate rates and costs and components of aggregate rates and costs have been demonstrated by the hospital to be consistent or inconsistent with the reasonable operating expenses found in 7 MCAR § 1.487 [A.1.a.(1), (2), (3), (4), (5), (6); B.(1), (a), (2), (3), (4), (5), (6), (7); A.2.; A.3.; A.4.]. In addition, a maximum of 5% of 7 MCAR § 1.487 [A.1.a.(1), (2), (3), (4); b.(1)(a)] shall

serve in lieu of 7 MCAR § 1.487 A.1. [b.(1), (b), (2), (3), (4); and C.]

7 MCAR § 1.487 A.1.a.(6)(a)(iii) other cost reducing activities undertaken by specific payers that do not simply and inequitably shift costs from one payer to another. ~~(primary consideration should be given to activities that serve the long range interests of a system-wide reduction of hospital costs).~~

A.1.a.(6)(c) "Cost justified discounts" and/or "price differentials" shall be granted to payers for hospital services and ~~may~~ shall be included in a hospital's financial requirements if:

7 MCAR § 1.504 F. Basis. This single percentage figure is based upon the average quarterly Consumer and/or Wholesale Price Indices and/or relevant components of the Consumer, Wholesale Price or other appropriate economic indices ~~representing natural expense categories presented in 7 MCAR § 1.474A.2.f.~~ as published by the Division of Labor Statistics, U.S. Department of Commerce. The single percentage figure shall be so constructed so that it will contain the proportionate contribution of each of the natural expense categories presented in 7 MCAR § 1.474 A.2.f.

Department of Health Health Systems Division

Adopted Rule for Changes in Rules for Health Maintenance Organizations

The rule proposed and published at *State Register*, Volume 3, Number 7, pp. 245-246, August 21, 1978 (3 S.R. 245) is adopted as proposed.

Department of Public Welfare Social Services Bureau

Adopted Rule Governing the Administration of Minnesota Public Social Services

The following rule was proposed and published at *State Register*, Volume 2, Number 1, pp. 60-73, July 11, 1977 (2

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **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."

RULES

S.R. 60), and Volume 2, Number 4, p. 160, August 1, 1977 (2 S.R. 160), and is now adopted with the following amendments:

Rule as Adopted

12 MCAR § 2.160 Administration of Minnesota public social services.

A.5. Sections A. through G. of this Rule apply ~~universally to all publicly funded social services regardless of funding source~~ county welfare boards and those human service boards which assume the responsibility for social services that would be provided by county welfare boards. Section H. applies to social services funded through Title XX of the Social Security Act of 1935, as amended.

A.6.a. Applicant: means ~~A~~ an individual who has directly, or through someone acting in his behalf, made application for social services.

A.6.b. Application: means ~~A~~ a request for social services on forms prescribed by the state agency. The application shall contain sufficient information about the applicant to enable the local social services agency to make an eligibility decision. As part of the application process, the applicant shall be informed of his rights and responsibilities as outlined by the state agency.

A.6.c. Approved vendor: means ~~P~~ providers of social services which are licensed, approved as meeting state licensing standards, or where licensing is not required, meet standards or criteria established by the state agency or local social services agency.

A.6.d. Categories of individuals: means ~~G~~ grouping of persons on the basis of common characteristics such as recipient status (Aid to Families with Dependent Children, Supplemental Security Income, Minnesota Supplemental Aid), income level, age and physical or mental condition.

A.6.e. Comprehensive Annual Services Program Plan (~~hereinafter~~ CASP Plan) means ~~T~~ the state social services plan, which is a compilation of all the local social services plans, and which meets the state plan requirements of Title XX of the Social Security Act.

A.6.f. Declaration method: means ~~A~~ acceptance of an individual's statements regarding the source and amount of his household monthly gross income, and the income maintenance status of any member of the household.

A.6.g. Documentation: means ~~W~~ written evidence, in addition to signed application and income declaration forms, of income maintenance status or household monthly gross income.

A.6.h. Federal financial participation (~~hereinafter~~ FFP): means ~~F~~ federal monies available through Title XX of the Social Security Act to be used in payment for social services.

A.6.i. Fees: means ~~M~~ monies billed and/or collected for the services provided.

A.6.j. Geographic area: means ~~L~~ locally identified political subdivision of the state covered by a social services plan.

A.6.k. Gross income: means ~~I~~ income, prior to any deductions, received from wages or salary; net income from self-employment; net farm income; Social Security payments; dividends, interest, rent received, or royalties; General Assistance payments; pensions and annuities; unemployment compensation; worker's compensation; alimony; child support; veteran's pensions; or any combination of the above sources of income.

A.6.l. Host county contract: means ~~C~~ contractual agreement between a purchase of service vendor and the local social services agency (the host county) where the vendor is located. All other social services agencies wishing to purchase from the vendor are bound by the terms of the host county contract.

A.6.m. Income eligible client: means ~~A~~ an individual ~~who receives needing and receiving social services on the basis of whose income only, and who is not receiving Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Minnesota Supplemental Aid (MSA)~~ level is the basis for allowing the agency to claim federal financial participation under Title XX.

A.6.n. Income maintenance status: means ~~A~~ an individual whose eligibility for Title XX federal financial participation in services received is based on his receipt of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Minnesota Supplemental Assistance Aid (MSA).

A.6.o. Local social services agency (also known as local agency): means ~~L~~ local agency under the authority of the county welfare or human services board which is responsible for social services.

A.6.p. Mandatory services: means ~~S~~ services required in state law or federal regulation.

A.6.q. Optional services: means ~~S~~ services available at the discretion of the county welfare or human service board.

A.6.r. Priority services: means ~~S~~ services the state agency strongly recommends be made available by the local

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social services agencies, but which are available at the discretion of the county welfare or human services board.

A.6.s. Provider: means Agency or individual delivering services.

A.6.t. Social Services: means ~~Those~~ services which are included in the Minnesota Comprehensive Annual Services Program Plan (~~CASP Plan~~). Such services include, but are not limited to: adoption, chore, counseling, developmental achievement for adults and children, day care for adults and children, educational assistance, employability, family planning, foster care for adults and children, health, home delivered and congregate meals, homemaking, housing, information and referral, legal, money management, protection for adults and children, residential treatment, social and recreational, and transportation. Social services do not include income maintenance programs, mental health center programs, health department programs or CETA programs unless there happens to exist a Title XX purchase of service contract between the welfare department and those other programs.

A.6.u. Source document: means A written statement such as a paycheck stub or birth certificate used to verify income, age, etc.

A.6.v. State Administrative Plan: means A federal approved statewide plan for the administration of the Title XX Program. The State Administrative Plan establishes the requirements in Section H.2. of this rule.

A.6.w. State agency: means Minnesota Department of Public Welfare.

A.6.x. Vendor: means Agency or individual from whom services are purchased.

B.1. The CASP Comprehensive Annual Services Program Plan year shall be October 1 through September 30.

B.2. On or before a date stipulated by the state agency, each local social services agency shall submit to the state agency a plan for service delivery and a budget to support that plan. The plan and budget shall be in accordance with the Local Social Services Plan Guidelines and budget forms prescribed by the state agency.

B.6. On or before July 1 of each year, the state agency shall publish a proposed CASP Comprehensive Annual Services Program Plan for the delivery of public social services. A copy of the proposed plan shall be available from the

state or local social services agencies at no cost to any individual on request.

B.6.b. ~~Open~~ Public meetings may be held throughout the state to answer questions and receive public comment on the proposed annual plan.

B.7. On or before October 1 of each year, the state agency shall publish the final CASP Comprehensive Annual Services Program Plan. A copy of the final plan shall be available from the state or local social services agencies at no cost to any individual on request.

B.8. The CASP Comprehensive Annual Services Program Plan may be amended by the state agency on its own initiative or at the request of a local social services agency with state agency approval.

C.1.b. Priority and optional services shall be provided to persons requesting them if a need for them is determined by the local social services agency in accordance with the individual service plan. The local social services agency's obligation to provide priority and optional services is limited to the cost estimate for each service specified in the annual local social services plan.

C.2. The following services or components of services are mandatory under federal or state law and must be provided by the local social services agency to all persons in each geographic area who need or request them.

C.2.b. Daytime Activity Developmental Achievement Services.

C.2.d. Family planning services.

(1) Education or counseling for individuals receiving AFDC Aid to Families with Dependent Children.

C.2.g. Protective services for adults.

~~(4) Subacute detoxification services.~~

~~(2)~~(1) Mental retardation guardianship and conservatorship services.

C.2.j. Employability services.

(1) For individuals receiving AFDC Aid to Families with Dependent Children.

C.3. The following services, or components of services,

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are priority services, which are available at the discretion of the county welfare or human services board, not made mandatory by federal or state law, but which have been significantly funded by the state in the past or which have been significantly delivered in the past. That is, priority services are based upon historical practice. Priority services are available at the discretion of the county welfare or human services board. The state agency strongly recommends these services be made available by local social services agencies.

C.3.a. Chore services.

(1) For individuals receiving Supplemental Security Income (SSI).

C.3.c.(2) Medical Health related services and supplies for individuals in the income eligible categories.

C.3.d.(1) Other than those required by the Minnesota Hospitalization and Commitment Act as defined in the CASP Comprehensive Annual Services Program Plan.

C.3.e.(1) For individuals receiving SSI Supplemental Security Income.

C.3.f. Homemaking Services including, but not limited to, attendant care.

(1) For all adults.

(2) For children during the temporary absence of the parent responsible for their care.

C.3.j.(1) For individuals receiving SSI Supplemental Security Income.

C.3.k.(1) For SSI MSA Supplemental Security Income-Minnesota Supplemental Aid recipients.

C.4. The following services, or components of services, shall be made available at the option of the local social services agency. These optional services are nonmandatory services which have past records of delivery or state funding that have not been as significant as the records of priority services found in subparagraph 3 of this section C.

C.4.a. Day care for children.

(1) ~~For families who are in the income eligible categories.~~

(2)(1) For families on a fee basis who are not in the income eligible categories.

C.4.e.(1) For individuals receiving AFDC Aid to Families with Dependent Children.

C.4.i.(1) Other than SSI Supplemental Security Income.

E.1.b. At local agency option, Applications shall not may be required for determining group eligibility. However, whether or not applications are required, the local social services agency shall obtain sufficient information to document the basis for the group eligibility decision. EXCEPTION: Clients requesting family planning services, whether based on group eligibility or individual eligibility, shall make written application in order to document that the request is voluntary.

E.3. Each applicant shall be given a written statement of his rights and responsibilities on the form prescribed by the state agency. For these individuals who cannot make use of or understand the written statement for reasons such as disability, age or education, the agency representative shall read out loud or interpret the written statement to the individual or to a responsible person acting on behalf of the individual. Before an applicant's signature is requested on any forms, each applicant shall be given a complete and comprehensive written statement of his rights and responsibilities on the form prescribed by the state agency. For those individuals who cannot make use of or understand the written statement for any reason, the agency representative shall read out loud or interpret (if foreign language interpreting capability is available) and explain the written statement to the individual or to a responsible person acting on behalf of the individual. The agency representative also shall respond to any questions the applicant or his representative may have.

E.4. Each applicant or his representative shall declare his income on a form prescribed by the state agency, and shall sign and date the form. This form need not be completed if:

a. The applicant ~~may~~ will only receive services without regard to income; or

b. The agency does not intend to claim Title XX federal financial participation (FFP) for the services to be provided; or

c. The applicant ~~may~~ will only receive services on the basis of group eligibility.

E.5. The agency shall act promptly on the application. ~~In no instance shall the agency take longer than 30 calendar days to make an eligibility decision nor shall the agency take longer than 15 days after the eligibility decision to notify the applicant in writing that his application has been approved or denied. The agency shall not take longer than 30 days to make an eligibility decision and the agency shall not take longer than 15 days after the eligibility decision to notify the applicant in writing that his application has been approved or denied. The notification date and reason for denial or~~

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approval shall be entered in the case record. If the application is denied, the individual shall be notified in writing of the reason for denial and of his right to appeal to the state agency.

E.6. If the application is approved, the local social services agency shall provide the social services with reasonable promptness. Reasonable promptness means:

a. ~~Within 30 days of the application; or~~

b.a. Within 15 calendar days of the notification that the application has been approved after the applicant has been notified of his eligibility; or

e.b. At an appropriate later date which has been mutually agreed upon by the local social services agency and the applicant.

F. Client's right to accept or reject services. The applicant, if legally competent, shall have free choice to accept or reject an agency assessment of a need for social services or an offer of social services. A refusal to accept social services shall not affect payment of financial assistance under income maintenance programs except in the Work Incentive Program. The local social services agency is not relieved of its statutory responsibility to provide protective services by the refusal of such services by any person who needs such services or acts on behalf of anyone who needs social services. In these instances when a statutorily required service is rejected, the person or his caretaker or guardian shall be given a clear explanation of the possible consequences of that choice.

H. Title XX of the Social Security Act.

1. Goals: Federal financial participation (~~FFP~~) under Title XX of the Social Security Act shall be available to the extent federal funds are allotted for eligible individuals and services which are specified in the local social services plan. Social services shall be provided to achieve the following goals:

H.4.a.(2) All individuals, not in the AFDC Aid to Families with Dependent Children grant, including step-fathers, but excluding foster parents, who are adult caretakers of children receiving AFDC Aid to Families with Dependent Children.

(3) Recipients of Supplemental Security Income (SSI) or Minnesota Supplemental Assistance Aid (MSA).

H.4.c.(2) Individual receiving services as stated in ~~45 CFR 228.65~~ directed toward the goal of protection as specified in Section H.6. of this rule. (For cross-reference, see 45 CFR 228.65.)

H.5.a. With state agency approval, local social services agencies have the option to include in the geographic area plan group determination of eligibility for social services as provided in and subject to federal regulations for Title XX.

H.6.a.(1) Title XX funds shall be available for services provided to adults who are unable to protect their own interests because of the actions or inactions of themselves or others which may result in injury, neglect, maltreatment, or exploitation. These adults shall include, but not be limited to, battered women.

H.6.a.(4) ~~FFP~~ Federal financial participation shall be available without regard to income for the following services and activities for adults in need of protection:

H.6.a.(4)(g) Emergency homemaking services not to exceed 30 cumulative days in any 12-month period.

H.6.a.(5) Eligibility for other social services in the CASP Comprehensive Annual Services Program Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

H.6.b.(2) The local social services agency shall document by entering into the case record for each child, that the parent or guardian is threatening to harm; is harming the child; or is failing to provide for the protection, care, and supervision expected by the community. child is harmed or threatened with harm. Such harm shall be identified as nonaccidental physical or mental injury, sexual abuse as defined in Minn. Stat. § 626.556, or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. Harm or threatened harm to a runaway shall also be documented.

H.6.b.(4) ~~FFP~~ Federal financial participation shall be available without regard to income for the following services and activities for children in need of protection.

H.6.b.(4)(i) All appropriate social services in the CASP Comprehensive Annual Services Program Plan which are necessary to protect runaways harmed or threatened with harm.

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H.6.b.(4)(j) Emergency homemaking services not to exceed 30 cumulative days in any 12-month period.

H.6.b.(5) Eligibility for other social services in the CASP Comprehensive Annual Services Program Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

H.7.(a) Title XX FFP federal financial participation shall be available for family planning services provided at the option of the local social services agency to minors (under age 18) who voluntarily request such services.

H.8.c.(4) An emancipated minor. For purposes of this section, an emancipated minor is an individual under the age of 18:

(a) Who has married; or

(b) Who is living apart from his parents and managing his own financial affairs; or

(c) Who is seeking one or more of the following Title XX services — family planning, health service, residential treatment for chemical dependency, or counseling related to pregnancy, venereal disease or chemical dependency — and has:

(i) Borne a child; or

(ii) Wishes to determine the presence of or treat pregnancy, venereal disease, or chemical dependency.

H.9. Determination of eligibility for Title XX FFP Federal Financial Participation.

H.9.d.(1) FFP Federal financial participation shall be available only to meet the cost of services provided to clients whose income maintenance status or household monthly gross income has been documented.

H.9.d.(3) Failure on the part of an applicant to cooperate in documenting income shall be acceptable grounds for delay beyond 30 days in processing an application or denial of eligibility for Title XX FFP federal financial participation in services requested.

H.9.f. Time Period for Determination of Eligibility for Title XX FFP Federal Financial Participation:

H.9.g. An individual shall remain eligible for a maximum of six months from the date eligibility was ini-

tially determined. Eligibility may be redetermined at any time by the local social services agency.

EXCEPTION: Eligibility shall be redetermined annually for individuals whose household monthly gross income is derived exclusively from pensions, Social Security, or ~~SSI~~ Supplemental Security Income, or a combination of these.

H.10.a. When Title XX FFP federal financial participation is claimed for service provided to individuals and families who are income eligible without a fee, no social services fee shall be charged to the client.

b. When a local social services agency wishes to claim FFP federal financial participation for services provided to individuals and households who are income eligible with a fee, a social services fee shall be charged according to the statewide fee schedule in the CASP Comprehensive Annual Services Program Plan.

H.10.c.(2) At least three collection notices are given in person or by mail to the client, usually at approximately 30-day intervals. Title XX eligibility is lost if the fee remains delinquent after three collection notices have been given; and a client's Title XX eligibility has been terminated if the fee remains delinquent after three collection notices have been given. A client's Title XX eligibility cannot be regained until a plan of payment has been agreed upon and implemented by the client and the agency.

H.10.d. The fee charged shall be the amount indicated on the appropriate fee schedule, in the CASP Comprehensive Annual Services Program Plan, except that no fee shall exceed the actual cost of all the services in the service plan.

H.10.d.(2) When services are being provided in addition to residential services for emotionally disturbed, and mentally retarded and epileptic children, two fees shall be computed and imposed, one for residential services and one for all other services received.

H.11.a.(1) The local social services agency shall deliver social services subject to FFP federal financial participation under Title XX by direct delivery, by purchase, or by arranging the services at no cost to the agency.

H.11.a.(3) Services purchased with the intention of claiming FFP federal financial participation must be listed in the CASP Comprehensive Annual Services Program Plan.

H.11.a.(4) At the option of the local social services

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agency, these same policies and procedures may be utilized for purchased services not subject to ~~FFP~~ federal financial participation.

H.11.b.(1)(a) Claim ~~FFP~~ federal financial participation

only for services purchased through a written contract. Every purchase of service contract ~~whether major or limited contract~~, shall be completed, signed and approved by the county welfare or human services board prior to the provision of services.

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Health Mortuary Science Division

Proposed Rules Relating to the Examination and Licensing of Morticians

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, March 29, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments to these rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8118, either before the hearing or within five (5)

days after the close of the hearing or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

A copy of the proposed rules is attached hereto and made a part hereof.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to Eugene Larson, Supervisor, Mortuary Science Unit, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

Notice: The proposed Amendments are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendments to participate in the rule hearing process.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **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."

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The statutory authority of the Commissioner to promulgate and adopt these amendments is contained in Minn. Stat. §§ 149.01-149.09 (1978) as well as Minn. Stat. §§ 144.12 and 144.122 (1978).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws of 1978, ch. 463, § 11 as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

February 12, 1979

George R. Pettersen, M.D.
Commissioner of Health

Amendments as Proposed

7 MCAR § 1.022 Morticians — examination and license requirements.

A. Every person who wishes to qualify as competent to engage in the practice of mortuary science, as required by the laws of the State of Minnesota, shall comply with the following requirements:

1. An applicant shall apply ~~He shall make application,~~ to the Minnesota State Board ~~board~~ Commissioner of Health for a license. ~~Such~~ The application shall contain the full name of the applicant in full, age, and the place of residence ~~mailing address and such other pertinent identifying information as the Commissioner may require.~~ It shall be accompanied by affidavits from at least two reputable residents of the county in which the applicant resides or proposes to carry on the practice of mortuary science, certifying that the applicant is of good moral character.

2. The applicant shall be at least ~~21~~ 18 years of age and shall have ~~satisfactorily~~ successfully completed at least two ~~scholastic~~ years a minimum of 60 semester or 90 quarter credits at an accredited college or university with approximate credit evaluation in course areas as follows: communications, 15 quarter credits to include speech and English, 15 quarter credits, the social sciences, 16 18 quarter credits to include sociology and psychology; natural science, 27 21 quarter credits to include general or inorganic chemistry and biology or zoology; and elective areas, 32 36 quarter credits. Following ~~such~~ this academic work, the applicant shall have completed a course of study and have secured a certificate of graduation verification of completion of the prescribed course of study from the Department of Mortuary Science at the University of Minnesota or any school of embalming college of Mortuary Science accredited by the Conference of Funeral Service Examining Boards of U.S., Inc. or the American Board of Funeral Service Education. The Commissioner may at his discretion vary the number of semester or quarter credits in specified areas.

3. After the these educational qualifications, in the order herein specified have been acquired, the applicant shall ~~have served~~ at least one year as a resident trainee in mortuary science under a mortician licensed in Minnesota. During the period of practical experience or traineeship the applicant shall have been registered as a trainee with the State Board of Health and shall have assisted under the supervision in embalming at least twenty-five bodies and in the direction of at least twenty-five funerals. The applicant shall attain a satisfactory level of achievement in a comprehensive written examination, approved given by the State board Commissioner of Health in such subjects related to the practice of mortuary science as anatomy, bacteriology, business methods, chemistry, pathology, public health laws and regulations, and the practice of mortuary

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science the Commissioner may prescribe. ~~At the discretion of the board, a practical examination in mortuary science may also be required.~~ If an applicant for a license to practice mortuary science has satisfactorily passed the National Board examination given by the Conference of Funeral Service Examining Boards of the U.S., Inc., and is so certified to the Commissioner by the Conference, effective January 1, 1976, the Commissioner may in his/her discretion accept the results of the National Board and require the applicant to successfully write an examination on laws of the state of Minnesota and the Rules of the Commissioner pertaining to registration of deaths, embalming, transportation, disposition of dead human bodies and funeral directing. An applicant who fails to attain a satisfactory level of achievement on any examination given by or on behalf of the Commissioner may be re-examined on application at the next annual examination. After successful completion of required examinations the applicant shall serve at least one year as a trainee in mortuary science under a mortician licensed by the State of Minnesota. During such period of experience the applicant shall be registered as a trainee in Mortuary Science with the Commissioner and shall assist under the supervision of a mortician in embalming at least 25 bodies and in the direction of at least 25 funerals.

4. License Application, Renewal and ~~Reciprocity~~ Endorsement Fees. An applicant for examination for a license in mortuary science, ~~by examination,~~ shall submit an application therefor on forms provided by the ~~State Board~~ Commissioner of Health together with a fee of ~~\$50.00~~ \$25.00.

When the applicant has successfully completed the examination and requirements for original license, the applicant shall submit to the Commissioner a license application on a form prescribed by the Commissioner and a fee of \$25.00 payable to, The Treasurer, State of Minnesota, after which the license shall be duly issued.

An applicant for a license in mortuary science by ~~reciprocity~~ endorsement without examination as to technical qualification pursuant to Minn. Stat. § 149.03, subd. 2, shall submit an application therefor on forms provided by the ~~State Board~~ Commissioner of Health together with a fee of \$75.00. ~~A reciprocity~~ The applicant shall prior to licensure take and pass an examination on the Minnesota laws and regulations rules relating to mortuary science only.

An applicant for a mortuary science courtesy card, issued pursuant to Minn. Stat. § 149.03, subd. 2, shall submit an application therefor on forms provided by the ~~State Board~~ Commissioner of Health together with a fee.

Initial and renewal mortuary science licenses or courtesy cards shall be issued for the calendar year for which application is made and shall expire on December 31 of that year.

Renewals thereof shall be obtained on an annual basis. Application for license or courtesy card renewal, together with the renewal fee of \$25.00, shall be submitted to the ~~State Board~~ Commissioner of Health on forms provided by it no later than December 31 of the year preceding the year for which application is made. Failure to submit the renewal application and fee by the date specified above shall result in an increase in the fee to \$35.00. If the renewal application and fee are not submitted within thirty-one (31) days after the expiration date, the license or courtesy card shall automatically lapse. Such persons shall be required to apply for a new license and meet all the requirements therefor.

Rule as Proposed (All new material)

7 MCAR § 1.032 Itemization and authorization to embalm.

A. Definitions. For the purposes of 7 MCAR §§ 1.021-1.032, the words, terms and phrases listed below in this subdivision shall have the meaning stated herein, unless the language and context clearly indicates that a different meaning is intended.

1. Casket: a container commonly used to enclose a dead human body for purposes of the funeral and final disposition.

2. Burial vault/interment receptacle: an outer container used to enclose the casket for earth burial.

3. Use of facilities:

a. Provision of chapel or room for the funeral or memorial service and/or provision of facilities for parking, counselling offices and other administrative purposes.

b. Provision of chapel or room for visitation/reviewal.

4. Transportation costs: includes the vehicle used for the initial transfer of the deceased, funeral coach, funeral sedans, flower car, service/utility car and the use of common carriers where needed.

5. Funeral service merchandise: includes such items as

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clothing, register books, cards and religious and fraternal items necessary to the conduct of the service.

6. Embalming: a process of chemically treating the dead human body to reduce the presence and growth of organisms, to retard organic decomposition and to restore an acceptable physical appearance.

7. Preparation of the body: includes such items of care as the setting of features; restorative procedures; washing; disinfecting; care of hair; shaving; dressing and casketing.

8. Professional services: includes the provision of staff for arrangements, visitations, funeral, memorial service when the body is not present, final disposition and administrative services such as counseling, securing and preparing necessary documents.

9. Cash advance items: items of merchandise and services provided by other than the mortician, funeral director or funeral establishment, the liability for which is incurred by the mortician, funeral director or funeral establishment on behalf of the funeral arranger and listed on the itemization form.

10. Cremation/calcination: the use of direct flames or intense heat to reduce the dead human body to ashes and inorganic bone fragments.

11. Destination: the city or town of final disposition.

12. Disposal unit: a container other than a casket used for burial, cremation, calcination or entombment of a dead human body.

13. Funeral: the rites or ceremonies connected with the final disposition of a dead human body with the body present.

B. Itemization of funeral costs.

1. Before final agreement is reached between the client and funeral establishment the mortician or funeral director shall give or cause to be given to the person(s) making arrangement, a written disclosure with the items and costs listed separately as required by Minn. Stat. § 149.09, subd. 1.

a. Minimum items. As a minimum the disclosure shall include a statement of charges for casket, burial vault, use of facilities for reviewal, use of facilities for funeral services, specifically itemized transportation costs, specifically itemized funeral service merchandise, embalming, preparation of the body, other professional services, and anticipated cash advances and expenditures. The disclosure shall have printed in conspicuous print: "Minnesota law

does not require that remains be placed in a casket before or at time of cremation."

b. Copy given. A copy of the itemized statement (funeral expense contract) shall be given the person(s) making funeral arrangement. The contract shall be signed by both parties and the funeral establishment shall retain a copy for three years thereafter.

c. Charges not known. If the charge for any item is not known at the time the contract is entered into, the establishment representative shall give his/her best estimate of the charges and advise the purchaser(s) of the exact charge as soon as the information becomes available.

d. Net amount billed. No funeral establishment shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item or items by the funeral establishment is the same as is billed to the funeral establishment.

C. Authorization to embalm.

1. Who grants permission. Written authorization for embalming a dead human body shall be obtained from the person lawfully entitled to custody of the body or from the individual prior to his/her death.

2. Oral permission procedure. Oral permission shall constitute approval to proceed with embalming, however, the establishment representative must specifically use the term "embalm" in securing oral permission. Written authorization shall be obtained as soon as practicable.

3. Embalming mandate. Upon request the mortician or funeral director shall explain the requirements of 7 MCAR § 1.024 which in some instances mandate embalming and make available a copy of 7 MCAR § 1.024.

4. Retention of copy. The written authorization shall be retained in the establishment record of the deceased for three years and a copy made available to the person(s) granting authority.

5. Form of authorization to embalm. The written authorization statement shall be as follows:

AUTHORIZATION TO EMBALM

I authorize _____ and its staff, agents or representative to embalm the body of _____. I am a relative of the deceased and/or am entitled to custody of the deceased. I understand that embalming is not required by Minnesota law except as provided by 7 MCAR § 1.024 when:

1) The deceased is to be sent out of state by common carrier,

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- 2) Death is due to communicable disease,
- 3) More than 18 hours will elapse from time of death to arrival at the destination, or
- 4) Final disposition of the deceased is longer than 72 hours after death.

_____	_____
name	relationship
_____	_____
name	establishment representative



The Minnesota gopher, famous symbol of the University of Minnesota, is actually the 13-lined ground squirrel. It weighs from five to nine ounces, and is buff colored with light and dark stripes down its back. (Drawing by Dan Metz, courtesy of the Minnesota Historical Society)

SUPREME COURT

**Decisions Filed Friday,
February 16, 1979**

Compiled by John McCarthy, Clerk

48874/52 Roger W. Jensen, petitioner, Appellant, vs. Lorraine O. Jensen. Hennepin County.

Inclusion of present value of noncontributory vested pension plan in marital assets subject to division upon dissolution.

Affirmed. Sheran, C. J. Took no part, Otis, J.

49671/61-1/2 Ordner T. Bundlie, Jr., Appellant, vs. David E. Christensen, contestee. Pipestone County.

Campaign charges of profligate judicial administration not the responsibility of incumbent did not violate prohibition of false information in campaigns.

The Code of Judicial Conduct and Code of Professional Responsibility must be read into provisions of election law.

Affirmed. Sheran, C. J.

47687/264 State of Minnesota vs. William George Ford, Appellant. Hennepin County.

The defense of entrapment is a predisposition-based defense which the jury must decide unless the defendant elects otherwise, in which case — as we held in *State v. Grilli*, 304 Minn. 80, 230 N. W. 2d 445 (1975) — the trial court, acting as trier of fact, decides the issue. No matter how involved the government is in inducing the commission of a crime, the defense of entrapment will not bar conviction if the government can prove beyond a reasonable doubt that the defendant was predisposed to commit the crime. Here the defendant elected to have the trial court decide entrapment, and the trial court did not clearly err in finding that there was no entrapment.

Unlike the entrapment defense, the due process defense bars conviction of even a predisposed defendant if the conduct of the government in participating in or inducing the commission of the crime is sufficiently outrageous. This is a legal defense which must be left to the court to apply. Here the court concluded that defendant failed to establish a due-process violation and we affirm this decision.

Affirmed. Rogosheske, J. Dissenting, Otis and Wahl, JJ.

47975/308 State of Minnesota vs. John Wayne Michaud, Jr., Appellant. St. Louis County.

The imposition of an extended term pursuant to Minn. St. §§ 609.155 and 609.16 is authorized, based upon the trial

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SUPREME COURT

court's sustainable finding of the requisite propensity of defendant toward commission of criminal acts of violence, including the crimes of which he is convicted, notwithstanding that the defendant had no prior conviction of crimes of violence. These statutes, as applied to defendant, do not deny due process of law.

Affirmed. Peterson, J.

48511 **Leonard Shannon, et al, Appellants, vs.**
48513/416 **Great American Insurance Company,**
 Appellant. Koochiching County.

Stated limits of an unambiguous insurance contract may not be enlarged by principles of estoppel.

Affirmed. Peterson, J.

48923/13 **Shirley A. Johnson, as trustee for the**
 heirs of Lawrence G. Johnson, decedent,
 Plaintiff, vs. Raske Building Systems, Inc.
 and H. K. Ferguson Company defendants
 and third party plaintiffs, Appellants, vs.
 N. H. Sandberg Erection Company, third
 party defendant. Renville County.

The apportionment of damages among a negligent employee, a negligent employer, and negligent third-party tortfeasors is governed by *Lambertson v. Cincinnati Corp.*, 312 Minn. 114, 257 N. W. 2d 679 (1977).

Reversed and remanded for modification of judgment. Peterson, J. Took no part, Otis, J.

48467/364 **State of Minnesota vs. Joseph John Char-**
 ley, Appellant. Ramsey County.

The district court did not err in denying defendant's motion to suppress a gun found during a warrantless search of defendant's car, where the court's determination was based not only upon the police officer's probable cause to arrest

the defendant for driving under the influence, but also upon the totality of circumstances leading to the search.

Affirmed. Yetka, J. Took no part, Peterson, J.

48886/50 **Fred W. Schultz vs. Minnesota Mark IV**
 Homes, Inc., et al, Realtors, and Veterans
 Administration Center of Sioux Falls,
 South Dakota, intervenor, Blue Cross and
 Blue Shield of Minnesota, intervenor.
 Workers' Compensation Court of Ap-
 peals.

The decision of the Workers' Compensation Court of Appeals awarding employees compensation for a 15-percent permanent partial disability of the back and for temporary total disability from September 11, 1974, to the date of the compensation hearing on July 9, 1977, and continuing, is affirmed.

There is no merit to the claim that respondents' temporary total disability benefits should have terminated in September 1973.

Affirmed. Per Curiam.

Order Filed February 8, 1979

48888/32 **Joanne Hvamstad, individually, and**
 d.b.a. Lolita's, et al, Appellants, vs. The
 City of Rochester, Minnesota, et al, and
 Warren Spannaus, individually, and as
 Attorney General of the State of Min-
 nesota. Olmsted County.

Order of the Olmsted County District Court, entered on April 14, 1978, denying plaintiffs' motion for a temporary injunction, affirmed pursuant to Rule 136.01(2), Rules of Civil Appellate Procedure.

Affirmed. Scott, J. Took no part, Otis, J.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

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

Board of Accountancy Notice of Certified Public Accountant Examination

The Minnesota State Board of Accountancy will conduct the regular examination May 2, 3 and 4, 1979 at the St. Paul Armory, 600 Cedar, St. Paul, Minnesota. Candidates should file applications 60 days prior thereto.

Forms and information available at Metro Square Bldg., 5th Floor, St. Paul, MN 55101. Telephone: 296-7937.

Cable Communications Board

Notice of Intent to Solicit Outside Opinion Regarding Creation of Classes of Cable Systems for Small Communities Revision of Transfer of Ownership Rules, Franchising Rules and Variance Rules

Notice is hereby given that the Minnesota Cable Communications Board is seeking information or opinions from outside the agency pertaining to creation of classes of cable systems for small communities, revision of transfer of ownership rules, franchising rules and variance rules. The Board seeks to simplify, shorten and clarify the procedures which are set forth in these rules.

The Board will be considering these subjects at its regularly scheduled monthly meetings. Parties wishing to submit information or opinions relating to revision of the above-mentioned rules are advised to do so at or prior to the time of the Board's April meeting tentatively scheduled to be held on April 13, 1979.

Any written material received by the agency shall become part of the hearing record in the event rules governing this subject are promulgated.

Any interested parties may inquire about these matters or submit information and opinions, in writing or orally, by contacting:

W. D. Donaldson, Executive Director
State of Minnesota
Cable Communications Board
500 Rice Street
St. Paul, Minnesota 55103
Telephone (612) 296-2545

February 20, 1979

W. D. Donaldson
Executive Director

Energy Agency

Northern Tier Pipeline Company Application for a Certificate of Need for a 40-Inch Crude Oil Pipeline Facility

Order for Rehearing and Notice Thereof

Whereas, Northern Tier Pipeline Company ("Northern Tier" or "Applicant") submitted to the Minnesota Energy Agency ("Agency"), on June 29, 1978, an application for a certificate of need for a large crude oil pipeline facility ("application") pursuant to Minn. Stat. ch. 116H and Minn. Rules EA 1001-1091; and

Whereas, the above-entitled matter was referred to the Minnesota State Office of Hearing Examiners for public hearing pursuant to Minn. Stat. § 116H.13 and Minn. Rules HE 201-222 and EA 500-520, 1001-1091 by the Agency's Order for Hearing and Notice Thereof dated July 13, 1978; and

Whereas, all the procedural requirements of the statutes and rules cited above were properly met and were completed by issuance on December 7, 1978, of proposed Findings of Fact, Conclusions of Law and Recommendation by Allen W. Klein, duly appointed Hearing Examiner; and

Whereas, the Director of the Agency issued his Findings of Fact, Conclusions and Decision ("Decision") denying the application on January 10, 1979, basing that Decision on his conclusions that Applicant's forecast of demand for the output of the proposed facility was not accurate, wherefore the Applicant had not justified the need for the projected facility; and

OFFICIAL NOTICES

Whereas, Applicant filed with the Director of the Agency on January 29, 1979, a Request for Reconsideration and on February 5, 1979, a Memorandum in Support of Request for Reconsideration which purported to constitute a showing, *inter alia*, that events subsequent to the making of the Decision support a reversal of the Decision and that the Decision did not adequately consider certain factors supporting certification of the facility; and

Whereas, Iowa RCO Association ("RCO"), a party-intervenor in the above-entitled matter, filed with the Director on February 1, 1979, a Request for Reconsideration and Petition for Rehearing in the above-entitled matter; and

Whereas, Applicant filed with the Director on February 9, 1979, a Petition for Rehearing adopting as its bases the contents of the earlier-filed Request for Reconsideration and Memorandum in support thereof; and

Whereas, the Director has determined that Applicant has made a sufficient showing that events subsequent to the Decision are of a magnitude which warrants reconsideration of the decision; and

Whereas, the Director has further determined that the above-entitled matter is of sufficient general public import and interest to be reconsidered only in an open public hearing process;

Now, therefore, based upon the authority vested in the Director by Minn. Stat. ch. 116H and Rules EA 500-520 and 1001-1091:

It is hereby ordered that the Request for Reconsideration and Petition for Rehearing submitted by RCO Iowa Association be and it hereby is denied and that the Request for Reconsideration of the Applicant be and it hereby is denied; and

It is hereby further ordered that the Petition for Rehearing of the Applicant be and it hereby is granted; and

It is hereby further ordered that the Applicant pay the actual expenses of the rehearing process; and

It is hereby further ordered that, in accordance with Minn. Rule EA 520, the rehearing in this matter shall be conducted in the same manner prescribed for a hearing with the six month period for decision running from the date of this Order; and

It is hereby further ordered and notice is hereby given that the contested case hearing concerning the above-entitled matter will reconvene at 9:30 a.m. on April 23, 1979, in Courtroom No. 2, Seventh Floor, Federal Building, 316 North Robert Street, St. Paul, Minnesota. This matter is being reheard upon the Petition for Rehearing filed by the

Applicant on February 9, 1979. The Petition was submitted and the reconvening of hearing is made pursuant to Minn. Rules EA 520 and Minn. Stat. § 116H.13. A prehearing conference will be held at 10:00 a.m. on April 13, 1979, in the Hearing Room at the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota.

The rehearing will be held before Allen W. Klein, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-5938, an independent hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel, any other representative of their choice, or themselves, if not otherwise prohibited as the unauthorized practice of law. The rehearing will be conducted pursuant to Minn. Stat. § 116H.13 and the contested case procedures set out in Minn. Stat. §§ 15.0411 through 14.052 and rules Minn. Rules HE 201-222 and EA 500-520. Where the procedural rules conflict, the Hearing Examiner's Rules, HE 201-222, supersede the Agency's rules, EA 500-520. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Dwight S. Wagenius, 720 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone (612) 296-8278.

The purpose of the rehearing is to determine whether the original decision to deny Northern Tier's application for a certificate of need for a large crude oil pipeline facility should be reversed.

Northern Tier is hereby directed to prefile certain supplemental information/testimony (the original with the hearing examiner, one to each of the known intervenors, and 75 copies to the Energy Agency) by March 20, 1979. The supplemental information/testimony, at a minimum, shall include the following:

(1) The current status of regulatory proceedings in the other four states; percent of right-of-way now owned by railroads, owned by oil companies, owned by federal and state governments, on Indian reservations, and owned by other private entities; amount of additional length and cost involved if Northern Tier must go around the Indian reservations; an update of the list of Minnesota landowners (including current addresses for those people whose copies of notices were returned to the Energy Agency — Ernest & Violet Sherette, Arnold Efpefeth, and Herman Brault).

(2) Reconciliation of the Pace and Energy Agency figures discussed in footnote 3 on page 7 of the Director's Decision; evidence, if any, that the Director improperly considered Canadian exports, the Northern pipeline, and the Williams pipeline; evidence that Northern Tier can sustain throughput sufficient to justify the cost of the facility; evidence that the three circumstances cited by

OFFICIAL NOTICES

the Director in Finding 79 are occurring or will occur; a discussion of proposed changes in the mandatory Canadian crude oil allocation program.

(3) Latest cost estimates for the project and proof that the estimates are reasonable; the interest rate that Northern Tier Pipeline Company is likely to face on money borrowed to finance the project; the amount of money that would have to be borrowed; more information regarding those pipelines built without commitments from refiners or investors, including the lengths and costs of such pipelines.

(4) Most current tariff estimates for the pipeline based on the latest cost projections and throughput projections; a current estimate of the throughput that will be required to make the project financially feasible.

(5) Latest update on Sohio's proposed Pactex pipeline; cost and throughput information for a smaller pipeline, if acceptable to Northern Tier Pipeline Company (see Director's Finding 88).

(6) Benefits of the pipeline other than supplying crude oil to refineries.

(7) Discussion of the mitigating measures suggested by the Minnesota Department of Agriculture and the Minnesota Pollution Control Agency in their testimony at the hearing (see Director's Findings 100, 110 and 115).

(8) A discussion of the impacts of the interruption of Iranian oil imports on Minnesota and the Northern Tier states.

(9) Copies and a discussion of the Bureau of Land Management Draft Environmental Impact Statement and its significance to the certificate of need decision.

(10) A discussion of correspondence to and from refiners who may be served by the proposed facility.

(11) Any other information deemed necessary or appropriate by Northern Tier Pipeline Company.

The above-listed items are those considered particularly important at this time by the Director. However, the Applicant and the parties to the hearing may offer testimony regarding other matters related to the size, type and timing of the facility. The testimony of other parties to the proceeding must be prefiled on or before April 3, 1979, with the same distribution as Applicant's testimony, except that 10 copies should be supplied to the Energy Agency.

There already are three parties other than the Applicant: the Iowa Reroute Crude Oil Association ("RCO"), Mr. Robert LaPlante, and the Energy Agency's Policy Analysis Activity staff. Any other person wishing to become a party

to the proceeding must file a Notice of Intervention or a Petition for Leave to Intervene with the Hearing Examiner pursuant to Minn. Rules EA 506 and HE 210(a). The Notice or Petition must be received by the Hearing Examiner on or before March 13, 1979, and a copy must be served on the Director's staff, the applicant, and all parties to the proceeding. Later intervention may be allowed by the Hearing Examiner based on circumstances at the time of filing; however, early intervention is strongly encouraged. Petitioners to intervene should attend the prehearing conference. It is assumed that successful additional intervenors will accept the record as it stands unless good cause is shown to reopen issues addressed earlier. Parties must file a Notice of Appearance at least ten (10) days prior to the hearing. (The Notice of Appearance is not a substitute for a Petition to Intervene).

Any person who wishes to give testimony, present other evidence or exhibits, or note his appearance at the hearing may do so, pursuant to Minn. Rule HE 210(e), without having attained party status by intervention. Registration forms for such appearances will be available at the hearing.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the Hearing Examiner or by the Director in the determination of the above-entitled matter. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

The procedural rules cited above are available for review at the Office of Hearing Examiners (Minn. Rules HE 201-222) and at the offices of the Energy Agency (Minn. Rules EA 500-520). The Director's Decision of January 10, 1979, the Requests for Reconsideration and Petitions for Rehearing, the substantive rules applicable to this matter, Minn. Rules EA 1001-1091, and the prefiled testimony and supplemental information, when available, are also available for review at the offices of the Energy Agency, and at the following libraries: the Polk County Library, Crookston; the Bemidji Public Library; Environmental Conservation Library, Minneapolis; and the Legislative Reference Library, State Capitol, St. Paul, Minnesota. All rules may be purchased from the Documents Section, Department of Administration, 140 Centennial Building, St. Paul, Minnesota 55155, telephone (612) 296-2874. The cited procedural rules provide generally for the procedural rights and obligations of the parties including the right to advance notice of witnesses and evidence, the right to present evidence and cross examine witnesses, the right to purchase a record or transcript, the right to object to petitions for intervention, the obligation to meet certain time limits, the obligation to file proposed findings and conclusions, and the right to file comments on and exceptions to the findings and recommendation of the Hearing Examiner.

Parties are entitled to issuance of subpoenas to compel

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witnesses to attend and produce documents and other evidence. Requests for subpoenas must be made of the Hearing Examiner in writing, pursuant to Minn. Rule HE 216.

If persons have good reason for requesting a change in the rehearing date, the request must be made in writing to the Hearing Examiner at least 5 days prior to the rehearing date noted above. A copy of the request must be served on the Agency and the other parties.

February 12, 1979

John P. Millhone
Acting Director

Ethical Practices Board

Regular Meeting

The regular meeting of the Ethical Practices Board is scheduled for 9:00 a.m., Friday, March 2, 1979 in Room 51 of the State Office Building, St. Paul, MN.

Preliminary Agenda

1. Minutes — January 19, 1979
2. Chairperson's report
 - a. Legislative Report
 - b. Wage and Salary Report
3. Legal Counsel Report
 - a. Red Lake Tribal Council
 - b. Michael George
 - c. Darrel Miller Volunteer Committee
4. Executive Session pursuant to Minn. Stat. § 10A.02, subd. 11
5. Lobbyist Rules
6. Campaign Finance Rules
7. Research Proposal
8. Executive Director's Report
 - a. Financial Report
 - b. Delinquency Report
 - (1) Campaign Finance — January 31 Report
 - (2) Lobbyists — January 15 Report
9. Other Business

The Metropolitan Council and Metropolitan Health Board

Public Hearing for the Joint Consideration of a Proposed Health Systems Plan for the Metropolitan Area and Amendments to the Health Guide Chapter of the Metropolitan Development Guide

The Metropolitan Council and the Metropolitan Health Board will jointly hold a public hearing on Wednesday, March 21, 1979 at 7 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, St. Paul, Minnesota 55101 for the purpose of receiving written and oral comments on the proposed Health Systems Plan and amendments to the Health Guide Chapter of the Metropolitan Development Guide.

Copies of the Health Systems Plan and amendments to the Health Guide Chapter are available free of charge from the Metropolitan Council Public Information Office, 300 Metro Square Building, St. Paul, Minnesota 55101, telephone 291-6464, and are also available for public inspection at the following locations beginning February 17:

Metropolitan Council Library
300 Metro Square Building
St. Paul, Minnesota 55101

Minneapolis Public Library
Government Documents Section
300 Nicollet Mall
Minneapolis, Minnesota 55401

Carver County — Chaska Library
314 Walnut St.
Chaska, Minnesota 55318

Southdale — Hennepin County Library
7001 York Ave. S.
Edina, Minnesota 55435

Scott County — Shakopee Library
235 S. Lewis St.
Shakopee, Minnesota 55379

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St. Paul Public Library
Government Publications Section
90 West Fourth St.
St. Paul, Minnesota 55102

Anoka County Central Library
707 Highway 10
Blaine, Minnesota 55434

Dakota County — Burnsville Library
1101 West Co. Rd. 42
Burnsville, Minnesota 55337

Ramsey County — Roseville Library
2180 N. Hamline Ave.
Roseville, Minnesota 55113

Washington County Library —
Park-Grove Branch
7520 — 80th St. S.
Cottage Grove, Minnesota 55016

People wishing to speak at this public hearing may register in advance by contacting Eleanor Suneson at 291-6352. Those who register first will be scheduled to speak first. Those who cannot attend are encouraged to send written comments to the Metropolitan Health Board, 300 Metro Square Building, St. Paul, Minnesota 55101, up to seven days following this hearing. For further information contact the Metropolitan Health Board at the above address, telephone: 291-6352.

Charles Weaver, Chairman
Metropolitan Council

Coral Houle, Chairperson
Metropolitan Health Board

Department of Transportation

Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules Governing the Program Development Process of the Mn/DOT Plan

Notice is hereby given that the Commissioner of Transportation seeks information or opinions outside the agency in preparing to propose and adopt rules governing the Program Development Process of the Mn/DOT Plan. The rules are being developed pursuant to Minn. Stat. § 174.03. Any interested person is invited to submit data or views on this subject in writing or orally to:

Peter Fausch
Minnesota Department of Transportation
818 Transportation Building
Saint Paul, Minnesota 55155
(612) 296-8532

Any written material received by the Department of Transportation shall become a part of the hearing record.

The agency may also hold meetings in the course of developing the proposed rules. Any person who wishes to receive notice of such meetings should contact Peter Fausch at the address noted above.

February 15, 1979

Richard P. Braun
Commissioner

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OFFICE OF THE STATE REGISTER

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