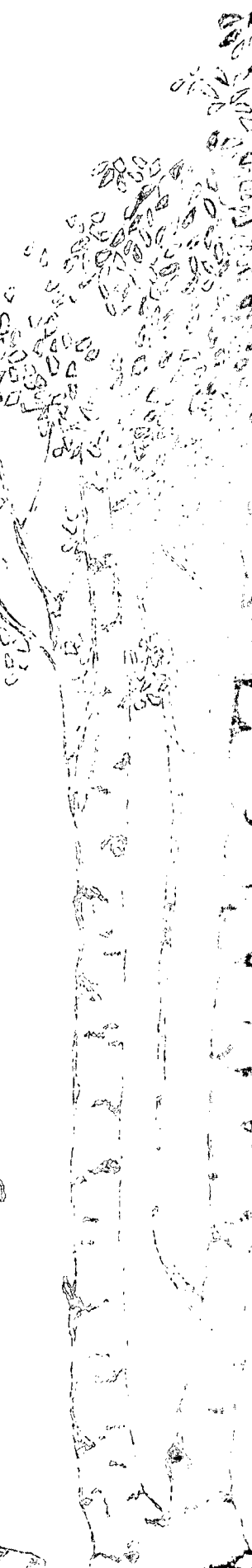
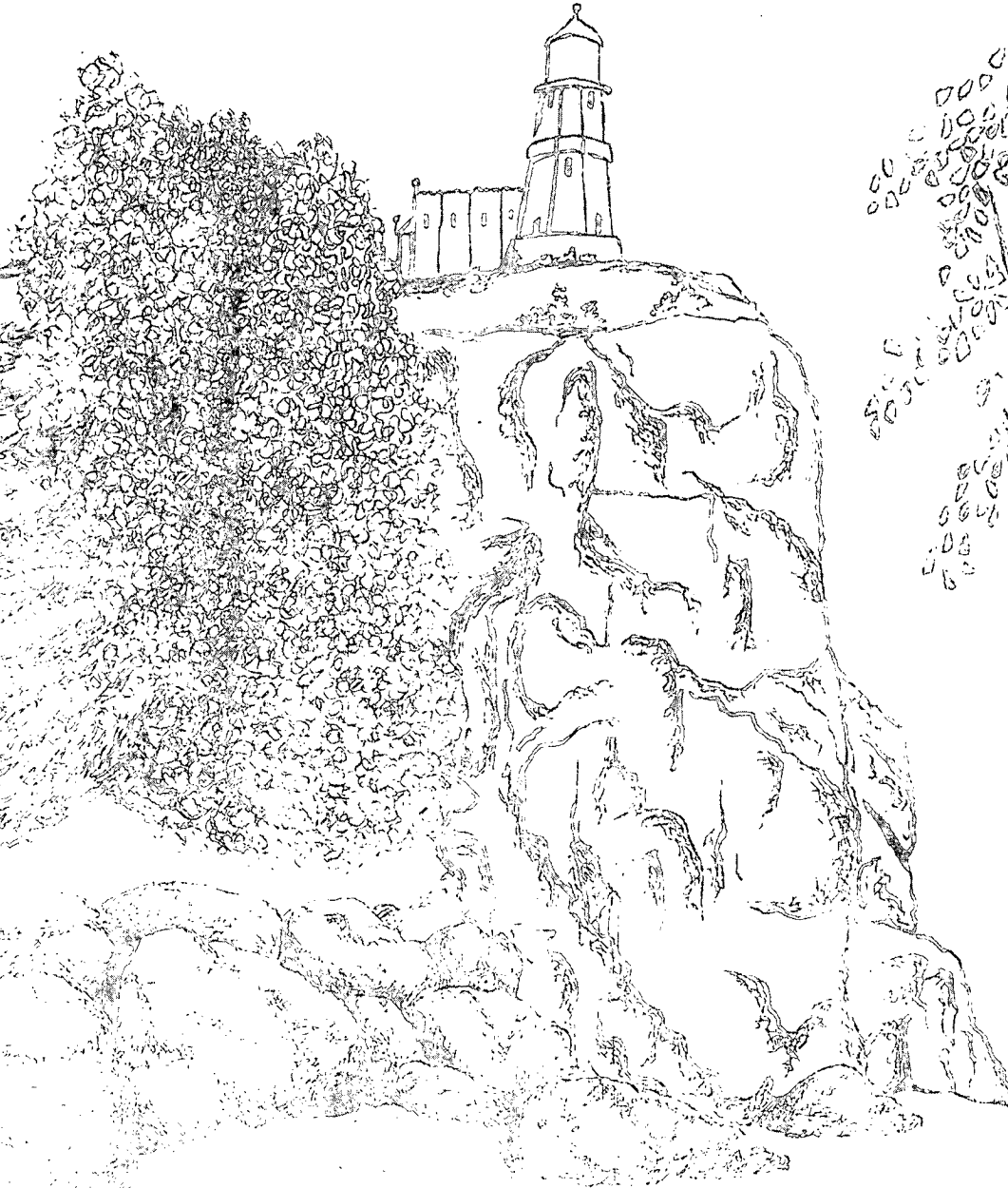
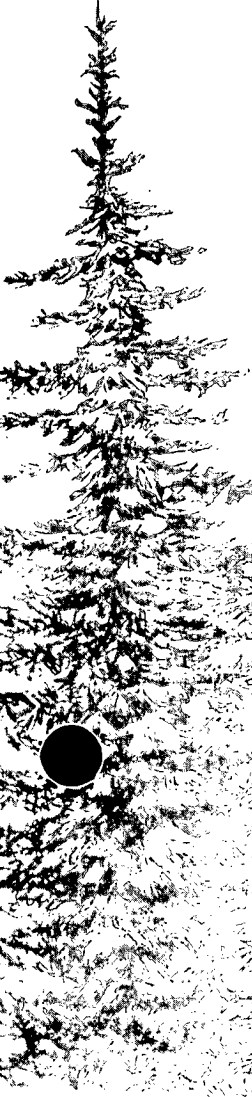


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January 7, 1980

Pages 1085-1120



Volume 4 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 4			
28	Friday Dec 28	Monday Jan 7	Monday Jan 14
29	Monday Jan 7	Monday Jan 14	Monday Jan 21
30	Monday Jan 14	Monday Jan 21	Monday Jan 28
31	Monday Jan 21	Monday Jan 28	Monday Feb 4

*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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NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
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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 rule or amendment. 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.

Housing Finance Agency

Proposed Amended Temporary Rules Governing the Urban Indian Housing Loan Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following amended temporary rules for the purpose of implementing the provisions of Minn. Stat. § 462A.07, subd. 15, the Urban Indian Housing Loan Program.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register* by writing to Ramona Jones, Indian-Rural Housing Specialist, Minnesota Housing Finance Agency, Suite 200 Nalpak Building, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rules.

December 24, 1979

James J. Solem
Executive Director

Amended Temporary Rules as Proposed

~~12 MCAR § 3.152 The urban Indian housing program. The agency shall select administrators for the urban Indian housing program from applications submitted to the agency pursuant to these rules. The program of an administrator shall describe the type of loan activities to be carried out by the administrator. A program may be administered in all or a portion of the eligible areas of the state of Minnesota, which include the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2 and any city with a population greater than 50,000 persons. To the extent practicable, the agency shall allocate urban Indian program funds equitably among eligible areas, based upon American Indian population estimates. To assist potential applicants, the agency shall provide, upon request, information describing potential uses of urban Indian housing program funds.~~

Public Hearings on Agency Rules January 14-18, 1980

Date	Agency and Rule Matter	Time & Place
Jan. 16	Cable Communications Board Definitions, Classification of Systems, Franchise Standards, Transfer of Ownership, Initial and Renewal Franchise Procedures, Length of Renewal Term Hearing Examiner: Natalie Gaul	9:00 a.m., Conference Rm., adjacent to Cable Communications Board office, 500 Rice St., St. Paul, MN
Jan. 17	Labor & Industry Dept. Prevailing Wage Determinations Hearing Examiner: Peter C. Erickson	9:00 a.m., Rm. D, Veterans Service Bldg., 20 W. 12th St., St. Paul, MN

The urban Indian housing loan program. The urban Indian housing loan program provides loans for housing for American Indian persons and families residing in urban areas of the state. The program is implemented through administrators selected by the agency after review of proposals submitted pursuant to these rules. A proposal by an administrator may serve all or a portion of the eligible areas of the state of Minnesota. The eligible areas are the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2 and any city with a population greater than 50,000 persons. To the extent practicable, the agency shall allocate urban Indian loan program funds equitably among eligible areas, based upon American Indian population estimates. To assist potential applicants, the agency shall provide, upon request, information describing potential uses of urban Indian housing loan program funds and may provide additional technical assistance upon request by the applicants.

~~12 MCAR § 3.153 Applications to utilize urban Indian housing program funds. For a period of 20 days after the agency gives notice that the urban Indian housing program funds are available, the agency shall receive applications for funds from prospective administrators. Each application shall contain:~~

~~A. Evidence adequate to establish that the applicant is a non-profit entity, local community, or Indian tribal organization.~~

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."

PROPOSED RULES

~~B. A proposed program which describes, in adequate detail as determined by the agency:~~

- ~~1. The communities or portions thereof to be served.~~
- ~~2. The housing needs of the American Indians residing in the areas to be served and the manner in which the proposed program assists in meeting those needs.~~
- ~~3. The content, utilization of funds, administration, operation and implementation of the program, including the types of loans to be made, the terms of the loans, and the method of outreach and selection of loan recipients.~~
- ~~4. The source of any funds other than the urban Indian housing program to be included in the program of the applicant, and evidence that these additional funds will be available.~~
- ~~5. The costs of administering the program and the manner in which these costs will be paid.~~
- ~~6. The duration of the program.~~

~~C. Evidence that the applicant has the capacity to successfully carry out the program.~~

~~D. The dollar amount of urban Indian program funds requested.~~

~~E. Any additional information which the agency in its reasonable discretion deems necessary after initial review of the application to evaluate the merits of the program.~~

~~The advisory council on urban Indian shall review all proposed applications. Upon request of the advisory council, a proposed applicant shall present its program before the advisory council.~~

12 MCAR § 3.153 Proposal from administrators.

~~A. The agency shall announce the availability of urban Indian loan program funds by publishing in the *State Register* a notice of Request for Proposals and by sending such notice to the persons and organizations on the agency's urban Indian mailing list. The notice shall specify that interested parties should obtain a complete Request for Proposals from the agency and shall specify the period in which proposals may be submitted, which period may not be less than 60 days from the date on which the notice is published in the *State Register*.~~

~~B. The Request for Proposals shall be prepared by the agency and made available to interested parties as provided in paragraph A. The Request for Proposals shall contain a description of the purposes and objectives of the urban Indian housing loan program, the content of a proposal, and the agency process for selecting proposals.~~

~~C. The Request for Proposals shall provide that each proposal submitted to the agency shall contain:~~

- ~~1. evidence that the organization submitting the proposal is a nonprofit entity, local community or Indian tribal organization and evidence that the organization has the capacity to successfully carry out the program;~~
- ~~2. a proposed program which describes, in adequate detail as determined by the agency:~~

~~a. the communities or portions thereof to be served.~~
~~b. the housing needs of the American Indians residing in the areas to be served and the manner in which the proposed program assists in meeting those needs.~~

~~c. a financial description of the program, including the dollar amount of program funds requested, types of loans to be made, the terms of the loans and the costs of program administration and the manner in which these costs will be paid.~~

~~d. a description of the manner in which the program will be implemented and operated, including the duration of the program, method of outreach and selection of loan recipients, and procedures for servicing loans over the life of the program.~~

~~e. the source of any funds other than the urban Indian housing loan program to be included in the program of the applicant, and evidence that these funds will be available.~~

~~3. Any additional information which the agency in its reasonable discretion deems necessary after initial review of the proposal to evaluate the merits of the program. The agency may meet with representatives of the organizations submitting proposals to review proposals and request such additional information.~~

~~D. The agency shall provide a copy of each proposal it receives to the Advisory Council on urban Indians, and shall forward to the Advisory Council a copy of any additional written material received regarding each proposal. The Advisory Council on urban Indians shall review all proposals. Upon request of the Advisory Council, the organization submitting a proposal shall present the proposal before the Advisory Council.~~

~~E. The Request for Proposal shall provide that an organization submitting a proposal which meets the objectives of the urban Indian housing loan program and which the organization determines is not best presented in the form of proposal required by the Request for Proposal may submit the proposal in any form desired, provided that the organization also submits a proposal meeting the requirements of the Request for Proposal.~~

~~**12 MCAR § 3.156 Selection criteria for urban Indian programs.** The agency may approve a program of an administrator in whole or in part, and may approve a program for a limited geographic area. In determining whether or not to approve applications to administer programs under the urban Indian program, the members shall examine the following facts and make their determinations thereon:~~

~~A. The extent to which the program will assist in serving the housing needs of the urban Indian community.~~

~~B. The extent to which the program will demonstrate the feasibility of alternative methods for providing housing for urban Indians.~~

~~C. The geographic location of the proposed program and the percentage of the Minnesota urban Indian community residing in the geographic area or areas to be served, as determined by the agency according to population data.~~

~~D. The time required to implement the program.~~

~~E. The method of program administration and the capability of the administrator to carry out the program.~~

~~F. The extent to which American Indians are involved in the administration of the program, and the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.~~

~~G. The extent to which the program duplicates, or is in conflict with, other programs which provide housing for urban Indians.~~

~~H. The extent to which the use of appropriated funds reduces housing costs to American Indians or American Indian families.~~

~~I. The extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the Agency or of other issues of bonds, and the extent to which the program otherwise uses available money to leverage the appropriated funds.~~

~~J. The written comments received by the agency as a result of consultation with the advisory council on urban Indians regarding the applications for the proposed programs. The agency shall consider the conclusions of the advisory council and the reasons given in support of the conclusions.~~

12 MCAR § 3.156 Selection of proposals. Selection criteria for urban Indian programs. The agency may approve a program of an administrator in whole or in part, and may approve a program for a limited geographic area. In determining whether or not to approve applications to administer programs under the urban Indian program, the members shall examine the following facts and make their determinations thereon:

A. Any written comments received by the agency from the Advisory Council regarding the applications for the proposed programs. The agency shall consider the conclusions of the Advisory Council and the reasons given in support of the conclusions, including the Council's evaluation of the applications under the criteria listed in paragraphs B. and C.;

B. the extent to which the program will assist in serving the housing needs of the urban Indian community. Factors to be considered include:

1. The extent to which the program duplicates or is in conflict with other programs which provide housing for urban Indians and the extent to which the program will demonstrate the feasibility of alternative methods for providing housing for urban Indians.

2. The geographic location of the proposed program and the percentage of the Minnesota urban Indian community residing in the geographic area or areas to be served, as determined by the agency according to population data.

3. The method of program administration, the time

required to implement the program, and the capacity of the administrator to carry out the program.

4. The extent to which American Indians are involved in the administration of the program, and in the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.

C. The extent to which the use of appropriated funds reduces housing costs to American Indian persons or families and the extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the agency, or of other issues of bonds, or otherwise uses available money to leverage the appropriated funds.

Department of Public Service Public Service Commission Proposed Rules Governing Telephone Inter-exchange Access (alternatives to present long distance calling)

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held in the following locations:

Tues., February 12, 1980 Winona—7:30 p.m.
Winona State College on Huff Street
Kryzsko Commons,
Purple Rooms 104 and 105
(just off Baldwin Lounge)
(Hearing Examiner Leonard Nelson,
612/296-8119)

Wed., February 13, 1980 Austin—7:30 p.m.
Multi-Purpose Room, YMCA,
704 1st Drive N.W.
(Hearing Examiner Leonard Nelson,
612/296-8119)

Thur., February 14, 1980 Montevideo—7:30 p.m.
Assembly Room, Chippewa
County Court House
(Use south entrance)
(Hearing Examiner Leonard Nelson,
612/296-8119)

Fri., February 15, 1980 Annandale—1:30 p.m.
Senior Citizens Room, City Hall
(Hearing Examiner Leonard Nelson,
612/296-8119)

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."

PROPOSED RULES

- Wed., February 20, 1980 Pine City—7:30 p.m.
District Court Room,
Pine City Court House
(Hearing Examiner Leonard Nelson,
612/296-8119)
- Thur., February 21, 1980 Virginia—7:30 p.m.
City Council Chambers, City Hall
(Hearing Examiner Leonard Nelson,
612/296-8119)
- Fri., February 22, 1980 Brainerd—1:30 p.m.
Meeting Room #2, County
Service Building
(Hearing Examiner Leonard Nelson,
612/296-8119)

These hearings shall continue until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Hearing Examiner Leonard Nelson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 612/296-8119, either before the hearing, or within five working days after the close of the hearing unless the hearing examiner orders a longer period not to exceed 20 calendar days.

A copy of the proposed rules are attached to this notice.

If adopted, the proposed rule would result in the establishment of uniform procedures for the installation of Community Calling Plans and the installation or removal of Extended Area Service.

Included in this rule are petition procedures and the criteria to be used by the Public Service Commission in determining whether to order the installation or removal of a particular calling service.

These rules are adopted pursuant to the commission's rule-making authority found in Minn. Stat. § 237.10 (1978), and the commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service, Minn. Stat. § 237.16 (1978).

Copies of the proposed rules are now available and one free copy may be obtained by writing to, or calling the Minnesota Public Service Commission, Attention Mary L. Harty, Secretary, 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone 612/296-8994. Copies will also be available at the door on the date of the hearing.

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).

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 the evidence which will be presented by the agency at the hearing justifying both the need and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11, (1978) 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 \$150, 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 must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

December 21, 1979

Mary L. Harty
Executive Secretary

Rules as Proposed

4 MCAR § 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the Public Service Commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individual's "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the commission's rulemaking authority found in Minn. Stat. § 237.10 (1978), and the commission's authority to require telephone companies to charge just and reasonable rates

and to furnish reasonably adequate service and facilities. Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company. Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service. Minn. Stat. § 237.16 (1978).

4 MCAR § 3.0231 Definitions. For purposes of the following rules the additional definitions apply:

A. "Community Calling Plan" means a service that allows toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block.

B. "Extended Area Service" means inter-exchange calling for which a toll charge is not assessed.

4 MCAR § 3.0232 Community Calling Plans.

A. Petition.

1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a. The telephone company that serves the exchanges;

b. the name of the exchange and the principal city in the exchange;

c. the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

d. the name, address and telephone number of each person signing the petition; and

e. a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff may be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff may be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points in each exchange, unless the commission finds, in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department of public service. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers; but the commission may authorize different rates for each class of customer.

D. Settlements. Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. Each revised agreement shall be submitted to the commission for its review and approval.

4 MCAR § 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition

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."

PROPOSED RULES

with the Department of Public Service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a. the telephone company serving the petitioner's exchange;

b. the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c. name of each exchange and the principal city in each exchange;

d. the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e. name, address and telephone number of each person signing the petition; and

f. a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the Department of Public Service and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Tariff filing. Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of Extended Area Service.

1. The proposed rates shall be based on the cost to provide or savings due to removal of the service. The cost or

savings shall be determined using the embedded book cost to current cost ratio to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost or savings due to installation or removal of Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative apportionment is fair and reasonable.

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

C. Traffic study. The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition.

D. Stipulation of facts. Within 60 days of the date of service of the petition, the staff of the Department of Public Service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public convenience requires installation or removal of the Extended Area Service. The stipulation of facts shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will no longer be useful or reuseable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

E. Public meeting. Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The

public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing. The petition shall be assigned to the Minnesota Office of Hearing Examiners for contested case hearing if:

1. Either company files with the tariff a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in either exchange file a notice of objection with the commission or appear at the public meeting and give notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the Department of Public Service and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice. In addition to notice required by statute or the rules of the Office of Hearing Examiners, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the Public Service Commission or the hearing examiner, and the address of the Public Service Commission or Office of Hearing Examiners.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, a final order of the commission is due 120 days after the order for hearing is served on the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public convenience.

I. Repetitioning. The commission shall not order the removal of Extended Area Service within five years of installation.

Department of Public Welfare Executive Division

Proposed Amendments to Rule Governing Minnesota Merit System

Notice of Hearing

A public hearing concerning the above-entitled matter will be held at the Centennial Office Building, Fourth Floor, Room A, 658 Cedar Street, St. Paul, Minnesota 55155 on February 11, 1980 commencing at 9:30 a.m. The rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the rule amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. 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 to the Hearing Examiner, Howard Kaibel, 1745 University Ave., St. Paul, Mn. 55104, (612) 296-8107, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that twenty-five 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 gives evidence justifying both the need for and reasonableness for the proposed rule. The agency intends to present only a short summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

12 MCAR § 2.490 contains definitions used in the Minnesota Merit System Rules. Proposed amendments to 12 MCAR § 2.490 will alter the definitions of "appointing authority" and "board" to include county boards. "County agency" will be

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redefined to include an organization created by the county board. "Employee" will be redefined to include a person in the employ of the county board. A new definition, "county welfare board," will define it to include the county board and human service board as well as the county welfare board.

12 MCAR § 2.491 D. delineates the positions and employees to which the Merit System Rules apply. The proposed amendment to 12 MCAR § 2.491 D.1. will apply the Merit System Rules to all positions and employees engaged in the administration of community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system under the jurisdiction of appointing authorities except for certain statutory exclusions which include the director of community social service.

The agency's authority to adopt the proposed rule is contained in the Community Social Services Act, Laws of 1979, ch. 324 § 5, Minn. Stat. § 256E.05; Minn. Stat. § 256.01, subd. 4(3); and Minn. Stat. § 393.07, subd. 5.

There will be no cost to local public bodies in the state to implement the proposed rule amendments for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Ralph W. Corey, Merit System Supervisor, Department of Public Welfare, Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone (612) 296-3996. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule amendments contact Ralph Corey.

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.

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

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* 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; 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, St. Paul, MN 55155, telephone (612) 296-5615.

Arthur E. Noot
Commissioner of Public Welfare

Amendments as Proposed

12 MCAR § 2.490 Definitions.

A.2. "Appointing authority" means the county board, county welfare board, human service board or officer authorized by statute or lawfully delegated authority to make appointments to positions under the Merit System.

3. "Board" means the county board, county welfare board, or human service board.

7. "County agency" means the organization created by the county board, county welfare board or the human service board to carry out the functions and policies of the board with regard to community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration.

15. "Employee" means any person in the employ of a county board, county welfare board, or human services board, exclusive of its members, who occupies a position covered by these rules and who is paid a salary or wage.

43. "County welfare board" means the county welfare board, county board or human service board.

12 MCAR § 2.491 D. Positions covered by these rules.

1. These rules shall apply to all positions created and employees in these positions engaged in the administration of community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel management under the jurisdiction of the Minnesota county welfare boards appointing authorities except duly appointed or elected members of these boards, and all employees of institutions, sanatoria and hospitals under the jurisdiction of county welfare such boards, and the director of community social services. These rules shall be applicable to such positions until such time as the counties adopt and maintain rules and regulations affecting classification and compensation, examination, and certification of eligibles and other personnel standards acceptable to the commissioner.

**Department of Public
Welfare
Support Services Bureau**

**Proposed Amendment to Rule
Governing Welfare Per Diem
Rates for Intermediate Care
Facilities/Mentally Retarded
Providers (12 MCAR § 2.052)**

Notice of Hearing

A public hearing concerning the proposed amendment to 12 MCAR § 2.052 will be held at the Minnesota Historical Society Building, 690 Cedar Street (corner of Central), Weyerhaeuser Room, Second Floor, St. Paul, Minnesota, on February 15, 1980 commencing at 9:00 a.m. The proposed rule amendment may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule amendment, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. 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 to the Hearing Examiner, Harry Seymour Crump, Office of Hearing Examiners, 1745 University Ave., Rm. 300, St. Paul, MN 55104, (612) 296-8111, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five 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. The Statement of Need and Reasonableness gives evidence justifying both the need for and reasonableness for the proposed rule. The agency intends to present a summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing. Copies of the Statement of Need

and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

Presently 12 MCAR § 2.052 establishes the criteria by which welfare rates for facilities serving mentally retarded residents are to be determined. The proposed amendments are necessary in order to provide cost incentives in the rate determination methodology, to enhance the accountability of public funds, and to provide a fair reimbursement system to the aforementioned service vendors. Two of the rule amendments relate to cost incentives to the service providers. The agency is proposing that the fixed expenses of property and related costs, general and administrative costs, and earnings allowance/cost of capital allowance will be divided by 93% licensed capacity days. Providers whose facility occupancy is greater than 93% will receive a rate incentive while providers with facility occupancy less than 93% will receive a rate disincentive. The agency is further proposing an overall rate limitation exception to those providers whose welfare rate request does not exceed 80% of the statewide weighted average rate. The rationale for this exception is that these providers do not require such overall rate limitation since their rates do not approach the rate levels of other providers.

Several of the rule amendments relate to an accountability of public funds. The agency is proposing cost category ceilings on interim rates in order to avoid settlement on inordinate costs. The provision is intended to encourage prudent cost expenditures during the interim period according to the agency's interim cost report approval. The agency is also proposing to revise the salary cost change base for salary pass-through exception from a 6% to a 15% limit of historical salaries. The increased percentage recognizes current inflationary factors and limits the amount of cost pass-through. The agency is further proposing that the overall rate limitation be computed by actual resident days which does not include the incentive portion of the 93% provision. The agency is also proposing to limit the compensation of multiple-ownership personnel to a cumulative amount based on the current formula. This provision adds a further cost limitation to top management compensation. The agency is further proposing to revise the investment per bed limitation in recognition of the distinct construction costs between Class A and Class B facilities. This provision is consistent with the intent of the original investment per bed concept which limits funding of facility rates to the reasonable costs of construction. The agency is also proposing to add a rule provision which will make it explicit that if any portions of the rule are found unreasonable by a court the remainder of the rule remains valid.

Several of the rule amendments relate to the objective of providing a fair reimbursement system to service providers. The agency is proposing a revision to the food cost change to recognize inflationary patterns of such cost items. The agency is

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further proposing an amendment to the occupancy cost change to make the provision non-applicable after the first two facility reporting periods since the cost change is not material after two years. The agency is also proposing a revision to the unidentified cost change to recognize inflationary patterns of those historical cost items which cannot be directly cost-projected under the cost change rule provisions. The agency is further proposing a clarification to the rule which allows the agency to net cost changes in determination of the unimplemented cost changes for agency repayment calculation. This provision allows the agency to net underprojected costs from the overprojected costs. The agency is also proposing an amendment to the investment per bed limitation which allows the agency to adjust the capital cost limit every three years in recognition of inflationary patterns in the construction industry. This provision allows the service vendors to replace fixed assets as necessary according to current reasonable cost limits. The agency is lastly proposing to amend the minimum cost of capital allowance to recognize inflationary trends in the consumer price index. This provision allows service vendors to earn an allowance which may be utilized to cover the cost of replacing fixed assets.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. §§ 256B.27 and 256B.04.

The department estimates that the cost of implementing the amendments to 12 MCAR § 2.052 will not exceed \$100,000 per year for local public bodies for the two years immediately following its adoption within the meaning of Minn. Stat. §§ 15.0412, subd. 7 (1978).

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Susan Canine, Department of Public Welfare, Centennial Building, St. Paul, MN 55155, telephone (612) 296-2738. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule amendment, contact Bob Rau at (612) 296-2738.

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.

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

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

administrative action by communicating or urging others to communicate with public officials; or

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615. December 17, 1979

Arthur E. Noot
Commissioner of Public Welfare

Amendments as Proposed

12 MCAR § 2.052 B. Rate determination.

1. Method of calculating welfare per diem rate.

a. Historical rate. The method of calculating the per diem rate will be to determine reasonable costs for the most current fiscal year, except for the property and related costs, general and administrative costs, and the earnings allowance or minimum cost of capital allowance, and divide by actual resident days according to the reasonable cost provisions of D. and cost reporting regulations contained in C. Such rate shall be based on occupancy factor of no less than 80%. The 80% occupancy factor shall apply only to facilities of more than ten beds. The property and related costs, general and administrative costs, and the earnings allowance or minimum cost of capital allowance will be divided by 93 percent of total capacity resident days for licensed beds. For facilities of ten beds or less the facility may use actual resident days. This provision shall not be in conflict with B.3.a.(3).

b. Incentive factor. In no case will the historical rate so determined under B.1.a. be less than a comparable amount calculated for the previous year minus one-half of the difference. This provision shall not apply for rates for newly established providers under B.3.a.

c. Allowance for known cost changes.

(1) Future cost increase or decreases known as of the report filing date must be added to or deducted from the historical rate determined according to B.1.a. and b. Such adjustment will be restricted to the elements defined in B.1.c.(1) (a) through (k) and shall be the annualized cost effect of such cost changes exclusive of any portion of cost change included in the historical rate.

(a) Salary and wage changes to occur during the effective period of the welfare rate:

(i) Future changes according to labor contracts, board resolutions, written policies, or minimum wage laws.

(ii) Changes that are in effect as of the end of the fiscal period covered by the historical cost portion of the welfare per diem rate.

- (b) Changes in facilities or equipment.
- (c) The annualized cost effect of complying with federal, state, or local laws and regulations on increased care or improved facilities.
- (d) Taxes—payroll and property.
- (e) Interest.
- (f) Depreciation.
- (g) Utilities and insurance.
- (h) ~~(+)~~ The cost effect of reductions and expansions to program services approved by the Department of Public Welfare.

(i) ~~(+)~~ Rental payments pursuant to a written lease.

~~(h) Food cost changes based on the average cost for the last three months of the fiscal period covered by the historical cost portion of the welfare per diem rate.~~

(j) A food cost change computed initially by multiplying the average of food services costs per day for available 1979 cost reports less the lower and upper 10% times the percentage change in the consumer price index for raw food costs in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics, for the period October through September. Subsequent annual cost changes will be made on a calendar year basis.

(k) ~~(+)~~ The cost effect of changes in occupancy levels based on average occupancy for the last three months of the fiscal period covered by the historical cost portion of the welfare per diem rate. This provision is applicable only to the first two fiscal years of newly-constructed or newly established facilities. Welfare rates in subsequent fiscal periods will be based on the occupancy from the most recently completed fiscal year.

~~(l) Unidentified cost increase equal to one percent of the average historical cost per day for the metropolitan area as indicated in B.4.b.~~

(1) An unidentified cost change computed by multiplying the allowable historical costs from the most recently completed fiscal year less those costs relating to line-item costs for which there has been a cost projection times the percentage change in the consumer price index in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the period October through September. In no case may the cost change be applied against the historical cost of salaries, changes in facilities or equipment, payroll-related costs, property taxes, interest, depreciation expense, rental payments or raw food costs.

(2) Cost changes determined under this provision must be based upon facts and commitments in existence as of the

filing date of the report. If the provider cannot substantiate the fact that such facts and written commitments did exist as of the filing date, the welfare rate will be subject to adjustment according to the provisions of B.2.c. and C.1.i. If the sum of known cost changes calculated under (a) through ~~(k)~~ (i) above do not in fact occur, the welfare rate will similarly be subject to adjustment under B.2.c. If the sum of actual cost increases exceeds the known cost changes determined under (a) through (1) above, no adjustment in welfare rate will be made.

2. Effective date, notifications, and adjustments.

c. Adjustments for error or omissions. All rates determined according to 12 MCAR § 2.052 may be subject to adjustment as a result of errors or omissions determined through audit of the provider's accounting and statistical records or by amended reports as provided by C.1.i. Such adjustments are limited to the three complete fiscal years preceding the date on which an audit commences. If the adjustment results in a payment from the provider, payment shall be made by the provider within 120 days after the date on which the provider received written notification of the adjustment. If the adjustment results in a payment to the provider, payment shall be made within 45 days after the date of receiving written notice of the adjustment.

3. Special rate-setting procedures.

a. New facilities.

(3) Interim-rate establishment. The Commissioner will establish an interim rate in accordance with Regulation B.1. retroactive to the first day on which a Medical Assistant recipient is placed in the home. Such rate shall be subject to retroactive upward or downward adjustment in accordance with all provisions of 12 MCAR § 2.052 except B.1.b. on the basis of first cost report covering actual results for the period to which the rate has been applied. Adjustments to the interim rate will be in accordance with B.1.a. Such rate shall be subject to retroactive upward or downward adjustment based on occupancy of no less than 80%. The 80% occupancy factor shall apply only to facilities of more than ten beds. Adjustments to the interim rate may be made at the option of the provider either at the end of the provider's first fiscal year or after six months of historical cost experience. The settlement must be at least six months of historical cost and statistical experience. Occupancy for the immediate fiscal year must be based on an annualization of the last three months of the interim fiscal year but not less than 90% occupancy. Rate settlement requests which are in excess of the interim rates may be subject to cost category ceilings according to D.1.

4. Rate limitations.

b. Overall limitation.

(2) Salary cost changes which exceed ~~6%~~ 15% of the historical salaries if the salary cost changes are reasonable

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and are required to bring facility salaries to the salary range of comparable facilities. The salary cost changes for top management compensation, the administrator, and additional personnel are excluded from this exception.

(3) Facilities that have a non-calendar year-end and may have been previously subject to the rate limitation may adjust the rates to the new rate limitation if previously justified by the reports. ~~The rate limitation will not apply to providers whose welfare rate request does not exceed \$19.00 per resident day for facilities located in the seven county metropolitan area and \$16.00 per resident day for facilities located outside the stated metropolitan area.~~

(4) The rate limitation will not apply to providers whose welfare rate request does not exceed 80% of the state-wide weighted average rate determined annually on a calendar year basis utilizing the most recently completed fiscal year cost reports submitted on or before December 31.

(5) The overall rate limitation will be computed by dividing total allowable cost plus exceptions by the actual resident days.

C. Reports.

1. General reporting requirements and submittal procedures.

a. Required reports. Except as provided by B.3.b. (flat rate request) to receive a per diem rate for providing care to welfare recipients, the provider must submit reports covering the provider's normal fiscal year conforming to the uniform accounting system defined in forms supplied by the department. Reports supporting documentation, and worksheets will consist of the following:

(1) General provider information and statistical data.

(2) Financial statements consisting of a comparative balance sheet, statement of changes in equity, and comparative statement of earnings or operations.

(3) Reports of historical costs and known changes together with supporting calculations and worksheets.

(4) Rate determination worksheets.

(5) All other data relevant to justification or support of the welfare rate as deemed necessary by the Commissioner or designated representative.

Specific report formats and preparation instructions will be contained in a provider manual prepared and revised periodically by department personnel. Copies of said manual will be made available to all interested parties through the Documents Section of the Department of Administration. Newly established providers or providers who change their fiscal year must file short-period reports if the period covered is more than five months. Providers who have major program changes approved by the Department of Public Welfare may submit an amended report to show the change in costs due to the program change. The cost effect of the program change must be

at least \$2,000 for the remainder of the provider's reporting period in order for him to submit an amended report.

b. Method of accounting. The accrual basis of accounting in accordance with generally accepted accounting principles shall be the only method acceptable for purposes of satisfying reporting requirements. In a unique situation such as the use of government providers, the use of the accrual basis of accounting may not be applicable. In such an instance, the commissioner may permit the provider to use a cash or modified cash basis of accounting if the provider can establish that no difference in rate would result.

c. Records. The provider, where applicable, will maintain statistical and accounting records to support information in no less detail than that required by C.1.a. required reports. The provider shall also make available federal and state income tax returns upon request of department personnel.

d. Report certification.

(1) Reports required in regulation C.1.a. will be accompanied by a certification of (1) the majority owner defined as the person having over 50 per cent effective ownership, or the chief financial officer if there is no majority owner, and (2) the administrator or the chief operating executive. If reports have been prepared by someone other than the above individual, a separate statement signed by the preparer shall be included stating the terms of the preparer's employment.

(2) If the provider has either audited or unaudited financial statements prepared by an independent public accountant, such statements must be submitted as a part of reports required by C.1.a.

e. Reporting deadlines and extensions.

(1) Deadlines. Required reports shall be submitted directly to the department within three calendar months after the close of the provider's normal fiscal year.

(2) Report deadline exceptions. The commissioner may grant exceptions to the reporting deadline for just cause. A routine extension of 60 days will be granted when a written request is received by the department prior to the reporting deadline.

f. Penalties.

(1) Report preparation and submittal. The penalty for non-compliance with C.1.a. and C.1.e. will be to reduce the reimbursement rate to 80 per cent of the rate then in effect on the first day of the fourth calendar month after the close of the provider's normal fiscal year. This penalty is not to apply for minor errors and omissions on reports. If the required reports are subsequently submitted, retroactivity of the established rate will be limited to the first day of the month following the month in which acceptable reports are received, unless retroactivity to a prior date is otherwise designated by the commissioner.

(2) False reports. Incorrect or false information supplied by the provider on required reports resulting in overpayments to the provider will result in one or more of the following:

(a) Immediate adjustment of the welfare rate, along with retroactive recovery of funds incorrectly paid to the provider.

(b) Termination of the provider contractual agreement.

(c) Prosecution under applicable federal and Minnesota statutes.

g. Audits. All reports will be subjected to desk audit and may be subjected to field examination of supporting records and compliance with regulations by state and federal auditors or auditing firms under contract to the state. If such audits reveal inadequacies in provider record keeping and accounting practices, the commissioner may require that the provider engage competent professional assistance to properly prepare required reports. Penalties of C.1.f.(1) or (2) may be applied to ensure compliance with this provision.

h. Application of reasonable cost principles. Reports required by C.1.a. must be prepared in accordance with reasonable cost principles in D.

i. Amended reports. Providers may file amendments to previously filed reports when mathematical errors or omissions are uncovered or when federal or state minimum wage law changes occur unexpectedly. The cost changes to comply with minimum wage laws will be limited to the wage increases required to meet the minimum standards of federal or state wage laws. Such changes in the welfare per diem rate must result in at least a five cent per patient day or \$2,000 adjustment, whichever is less for each annual period.

2. Special provisions for multi-home providers and providers involved in other business activities.

a. Charges from related organizations. Costs applicable to services, facilities, and supplies furnished to the provider by organization related to the provider by common ownership or control are includable in the allowable cost of the provider at the cost to the related organization. If the related organization in the normal course of business sells services, facilities or supplies to the outsiders, the cost to the provider shall not be greater than the outsider's price; however, sales to outsiders must constitute at least 25 per cent of its sales.

b. Cost allocation of top-management salaries and management fees. The allocated portion of compensation for the chairman of the board, directors, presidents, or other similarly titled individuals and other corporate charges or costs allocated to a facility must represent the cost of services actually rendered and be identified according to the type of service provided.

3. Definitions.

a. Cost categories. Costs used for rate-setting purposes and related to resident care are to be grouped according to

major cost categories used in required reports. Such categories are defined as follows:

(1) Resident-living. All directly identifiable personnel costs associated with residential service. Personnel costs to be included are the salaries of the director of residential living, supervisors of residential living staff, and residential living staff.

(2) Developmental services. All directly identifiable costs of developmental services, such as training, rehabilitation, and social services not separately reimbursed according to C.3.a.(10).

(3) Health services. All directly identifiable costs related to health services not separately reimbursed according to C.3.b.(10). Costs will include personnel, purchased services, and supplies.

(4) Resident-related services. All directly identifiable costs of resident-related services, such as recreation, religion, arts, and crafts, and leisure time activities not separately reimbursed according to C.3.a.(10). Costs will include personnel, purchased services, and supplies.

(5) Food services. All directly identifiable costs of normal and special diet food, including food preparation and serving. Personnel costs to be included in dietary costs are the salaries of dietitians, chefs, cooks, dishwashers, and all other employees assigned to the kitchen and dining room.

(6) Laundry and linen. All directly identifiable costs of linen and bedding, laundering, and laundry supplies. Personnel costs to be included in laundry are the salaries of laundry employees, seamstresses, laundrymen, and ironers.

(7) Housekeeping. All directly identifiable costs of housekeeping, including cleaning and lavatory supplies. Personnel costs to be included are the salaries of housekeepers, maids, and other cleaning personnel.

(8) Plant operation and maintenance. All directly identifiable costs for maintenance and operation of the buildings and grounds, including fuel, electricity, water, supplies, and parts to repair and maintain equipment and facilities, and tools. Personnel costs to be included are the salaries of engineers, painters, heating plant employees, plumbers, electricians, carpenters, and watchmen.

(9) General and administration. All directly identifiable costs for administering over-all activities of the facility, including business-office functions, travel expense, motor vehicle operating expense, telephone charges, office supplies, advertising, licensing fees, and professional services. Personnel costs are the salaries of administrators, assistant administrators, accounting personnel, and all clerical personnel. Also included in administration are fringe benefits costs of all employees, such

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as employment taxes, health insurance, pensions, and life insurance; also included are other costs not otherwise classified under definitions in C.3.a.

(10) Miscellaneous nonreimbursable services and expenses.

(a) All directly identifiable costs of functions normally reimbursed by charges to residents, employees, or outsiders, such as the operating costs of a pharmacy, beauty shop, or coffee and gift shop, are included here.

(b) Also included are specific costs that may be incurred by the provider and reimbursed separately according to a fee schedule. These include but are not limited to the following.

(i) Services provided by licensed medical, therapeutic, or rehabilitative practitioners.

(ii) Oxygen at prevailing prices.

(iii) Wheel-chair alterations for specific Medical Assistance recipients.

(c) Also included in this section will be costs associated with operating activities financed by restricted or unrestricted gifts or grants from private or public funds. Costs deemed unallowable under section of the rule can be identified as offsets from such gifts or grants.

(d) All costs classified in C.3.a.(10) are not allowable for purposes of determining a per diem rate under these regulations.

b. Resident days.

(1) General definition. For purposes of determining a per diem rate, a resident day is defined as a day for which full and normal billings were rendered.

4. Cost-allocation procedures.

a. General provisions for all providers.

(1) Costs will be classified in accordance with categories defined in C.3.a.

(2) Classification of costs to cost categories C.3.a. will involve one or more of the following steps:

(a) Direct identification, without allocation, which will be accomplished in the routine classification of transactions when costs are recorded in the books and records of the provider.

(b) Other costs that cannot be classified to cost categories through use of procedure C.4.a.(2)(a) will be classified in the administrative category.

(3) Adjustments for costs otherwise reimbursed. Recorded costs will be reduced for costs related to other activities not subject to rate determination as defined in C.3.a.(10).

b. Allocation of non-allowable personal expenses for owners living in the facility. Allocation procedures are defined in the following sections and must be applied in the

order stated for personal expense included in the expenses of the facility.

(1) Food services.

(a) Cost allocation on the number of meals served.

(b) Cost allocation based on actual resident days.

(2) Laundry and linen, housekeeping, and plant operations and maintenance.

(a) Cost allocation based on actual resident days.

(3) Depreciation, interest, and real estate and personal property taxes.

(a) Allocations based on the ratio of square feet of floor space devoted to personal use.

(b) Cost allocation based on actual resident days.

(c) Allocation of costs for providers of care other than mentally retarded services or nursing homes. Reasonable cost allocations must be made for costs associated with care other than mentally retarded services or nursing home.

D. Reasonable cost principles.

1. General provisions.

i. Top-management compensation limitation. Top management compensation includes that of administrators, board of directors and all other individuals receiving compensation as executives. The compensation must also be justified under the provisions of D.1.c. of the rule. The annual compensation will be determined according to the total number of licensed beds per facility as follows:

Number of Beds	Cumulative Annual Bed Compensation
1-30	\$435
31-60	\$240
Over 60	\$180

For facilities of 30 beds or less the administrator's salary may be allocated between varied functions performed by the administrator if justified through review of personnel complement by licensing personnel. A top management individual who is compensated in more than two facilities with a total bed complement of more than 50 beds may be subject to the compensation limitation on a cumulative basis of all facilities if the sum of the annual bed compensation formulae as applied to individual facilities is unreasonable. The maximum compensation limitation shall be \$35,000 per facility.

D. Reasonable cost principles.

3. Depreciation.

b. Limitations.

(1) The total basis of depreciable facility assets shall not exceed an average of ~~\$14,820~~ \$22,051 per bed for Class A licensed beds and \$26,548 per bed for Class B beds built

or purchased after ~~January 1, 1974~~ December 31, 1979. ~~The commissioner may waive this limitation if the facility is deemed to be necessary and no alternative comparable facility is available.~~ This limitation will be adjusted annually beginning January 1, ~~1976~~ 1981 according to a construction index as determined by the commissioner.

(4) Regardless of the applicability of the limitation stated in D.3.b.(1) above, depreciation on investments in facility modifications and new equipment will be allowed if they were required by local, state or federal requirements. After the facility's first three complete fiscal years and every three years thereafter, the facility's investment per bed limitation will be adjusted to reflect the average annual increase for equipment additions and/or facility modification. The investment per bed revision does not apply to original construction and/or investment costs. The investment per bed revision will not be an exception to the overall maximum of B.4.b. The change in the investment per bed limitation will be based on the consumer price index for housing in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the period October through September.

5. Cost of capital.

c. Minimum cost of capital allowance for providers. Notwithstanding the provision of D.5.a.(5) and D.5.b., the cost of capital allowance shall be no less than the combination of:

(1) Actual interest on capital indebtedness.

(2) An earnings amount determined by multiplying resident days for a fiscal year, or part thereof if a short period report is being filed, by 35 cents.

The minimum cost of capital allowance will be adjusted annually on a calendar year basis according to the consumer price index for all items in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the period October through September. The initial revised minimum cost of capital allowance will be \$.58 January 1, 1980.

E. Effective date of 12 MCAR § 2.052 revisions.

1. All revisions of this revised 12 MCAR § 2.052 shall take effect beginning with reports covering fiscal years ending after November 30, ~~1976~~ 1979.

F. Several provisions. If any provisions of the rule as adopted by the Commissioner of Public Welfare are found through judicial procedures to be unreasonable or not supported by the evidence, the remaining provisions shall remain valid.

[Proposed changes to 12 MCAR § 2.052: The preceding changes are proposed to 12 MCAR § 2.052 effective January 1, 1980.]



NORTHERN TRAIL—The Minnesota Zoological Garden offers an exhibit of large cold weather animals on its Northern Trail, a pleasant three-quarter mile walk that is cleared all winter for those who enjoy brisk conditions. (For the less hardy, the mono-rail tour is open all year.) The moose is the only Minnesota animal on the Trail, but visitors also will see Siberian tigers, musk oxen, bactrian camels and mongolian wild horses. In their natural habitats in the Northern Hemisphere these animals range on grassland, arctic tundra, craggy mountains and in northern forests. (Courtesy of the Minnesota Zoological Garden)

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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 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 Corrections Standards Development Unit Adopted Rules Governing Minimum Standards for Adult Halfway Houses and Group Foster Homes

The rules published and proposed at *State Register*, Volume 3, Number 50, pp. 2205-2260, June 18, 1979 (3 S.R. 2213) are now adopted, with the following amendments:

Rules as Adopted

Chapter One: Adult Halfway Houses

11 MCAR § 2.401 Introduction.

B. The Commissioner of Corrections has, pursuant to Laws of 1978, ch. 778, § 6, appointed a citizens' advisory task force to assist in the development of rules contained herein.

11 MCAR § 2.402 B. Reletter as 11 MCAR § 2.401 C.

11 MCAR § 2.402 Definitions.

A. "Youth" are persons under eighteen (18) years of age.

B. "Adults" are persons eighteen (18) years of age or over.

F.1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) may shall be issued for another six (6) month period if the applicant is temporarily unable to substantially comply with the requirements of these rules.

F.4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial compliance with licensing requirements.

J. "Residential facility" means any Community Correctional Facility which regularly provides twenty-four (24) hour a day care including food and lodging.

K. "Governing Board/Sponsoring Agency" is the body which formulates the policies and procedures governing a Community Correctional Facility, this body being composed, at a minimum, of the offices of president, secretary, and treasurer, and the administrator of the program. In non-profit corporations the administrator of the program shall not be a member of the

board of directors. In addition, there may be an advisory board, where appropriate, including membership from the specific target group and the immediate neighborhood population, and additional membership according to the size and function of the individual program.

L. "Facility administrator" refers to the administrator of the program, employed or appointed by the board or Sponsoring Agency, to implement its policies, programs and treatment plans.

N. "Program" is a plan, procedure or activity for dealing with residents in a eCommunity eCorrectional fFacility.

V. "Substantially conform" or "substantial compliance" as used in this rule shall mean compliance with 70% or more of all rules applicable to a facility's classification as stated herein, and, additionally, shall mean compliance with 70% or more of all rules applicable to a facility's classification in each section of these rules. "Section" as used in this definition means the entire area or subject matter under a given rule, e.g., 11 MCAR §§ 2.401, 2.402 etc.

W. Corporal punishment. Physical punishment, any kind of punishment inflicted on the body, such as whipping or slapping.

11 MCAR § 2.403 Procedures for licensing.

A. Legal basis. Licensing authority. The Minnesota Department of Corrections (the commissioner) is authorized to establish procedures for licensing CCF Adult Halfway Houses through the authority of Minn. Stat. § 241.021, subd. 1 (1976) (1978).

B. All Adult Halfway Houses will be inspected pursuant to Minn. Stat. § 241.021, subd. 1 and all such inspections shall be according to the standards set forth herein.

11 MCAR § 2.403 B. Reletter as 11 MCAR § 2.403 C.

C.1. New applicants shall file application to the Commissioner of Corrections at least thirty (30) days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

C.2.b. A statement regarding the administration and organization of the CCF (i.e., information on the governing body and administrator who are responsible for policy making, and administering and operating the facility). See Organization and Administration, § 2.404-2.408.

C.2.k. At least three letters of reference for the facility administrator.

C.2.q. Evidence of compliance with local zoning ordinances.

~~D.C.~~ Renewal license.

D.1. Application for relicensure shall be submitted to the Commissioner at least thirty (30) days prior to the expiration date. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the eCommunity eCorrectional fFacility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

~~E.D.~~ Provisional license.

E.1. A provisional license will be: 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) may ~~shall~~ be issued for another maximum six (6) month period if the facility is not yet in substantial compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional license shall be filed thirty (30) days prior to expiration date. The provisional license shall not be renewed so as to exceed one (1) year.

E.2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the eCommunity eCorrections fFacility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

E.3. If, at the end of the six (6) month provisional period, the facility is in substantial compliance with these rules a full license will be issued.

~~F.E.~~ Conditions of license.

~~F.5. Granting of license under these rules is a privilege and not a right.~~

F.5.6. There is no fee for a state license.

11 MCAR § 2.403 F. Reletter as **11 MCAR § 2.403 G.**

H. Restriction of the use of a CCF. The commissioner may, by written order, restrict the use of any Adult Halfway House, which does not substantially conform to the minimum standards, or, where specific conditions exist which endanger the health, welfare or safety of residents or staff, prohibit the detention of persons therein for more than seventy-two (72) hours.

~~I.G.~~ Waiver of specific rule. The granting of a waiver under this section shall not constitute a precedent for any other CCF. The commissioner shall grant a waiver of a specific rule, if, in the licensing procedure or enforcement of the standards the commissioner finds that:

I.1. To require a particular eCommunity eCorrectional fFacility to comply strictly with one or more of the provisions will result in undue hardship;

I.2. The eCommunity eCorrectional fFacility is otherwise in substantial compliance with said standards and their general purpose and intent;

I.3. The eCommunity eCorrectional fFacility complies with such specific condition(s) as the commissioner may deem necessary for the protection of the health, safety, and welfare of the residents; ~~then the Commissioner may grant a waiver of specific rule. The granting of a waiver shall not constitute a precedent for any other CCF.~~

11 MCAR § 2.403 H. Reletter as **11 MCAR § 2.403 J.**

11 MCAR § 2.403 I. Reletter as **11 MCAR § 2.403 K.**

~~J. Appeal procedure. Any applicant who feels aggrieved by the Commissioner's action may appeal the Commissioner's decision in the following manner:~~

~~1. The facility administrator shall be given written notice of the action and shall be informed of the right to appeal the decision of the commissioner in writing within ten (10) days from his or her receipt of notice of the action. Upon receiving a timely written appeal, the Commissioner shall give the facility administrator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner, appointed by the State Board of Hearing Examiners. The hearing examiner shall recommend to the commissioner whether the license shall be granted, suspended, revoked or denied. The commissioner shall not be bound by the decision of the hearing examiner. The decision of the commissioner shall be served on the operator by certified mail.~~

~~2. At any hearing, the facility administrator may be represented by counsel and shall have the right to call, examine and cross examine witnesses. The hearing examiner is empowered to require the presence of witnesses and subpoena on the behalf of any party. Each decision by the hearing examiner shall be in writing, shall contain findings of fact and conclusion, and shall be mailed to the parties by certified or registered mail. Unless the situation has been found by the commissioner to be hazardous to the health of residents, a facility may continue to operate, but may not initiate operations, pending a decision of the hearing examiner.~~

~~L. Appeal procedure. Any applicant who feels aggrieved by the commissioner's action may appeal the commissioner's deci-~~

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sion in the following manner: The facility administrator shall be given written notice of the action and shall be informed of the right to appeal the decision of the commissioner in writing within ten (10) days from his or her receipt of notice of the action. Upon receiving a timely written appeal, the commissioner shall give the facility administrator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner.

~~M.K.~~ When a CCF license has been revoked or not renewed because of non-compliance with applicable laws or rules, it shall not be granted a new license for a period of ~~not less than one (1) or up to five (5) years~~ following the revocation, denial or non-renewal. ~~The specific length of time shall be determined at the discretion of the Commissioner.~~

11 MCAR § 2.403 L. Reletter as **11 MCAR § 2.403 N.**

~~**11 MCAR § 2.404 Organization and administration of Adult Halfway Houses.**~~

11 MCAR § 2.404 Severability. If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

11 MCAR § ~~2.404~~ 2.408 Organization and administration of Adult Halfway Houses.

A.1. If an Adult Halfway House is to operate as a non-profit corporation, it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. § 317.65, particularly as it relates to governing boards and annual audits.

B. Policy making. ~~the governing board. The board~~ The governing board shall have a written policy clearly stating its purposes, the program and services offered. This will be done in a form suitable for distribution to staff, clients, referral sources, funding agencies and the general public.

C. The governing board of the Community Correctional Facility shall hold meetings at least ~~annually~~ quarterly with the administrator in order to facilitate communications, establish policy, explore problems, ensure conformity to legal and fiscal requirements, and implement the program.

~~F. No member of the governing board of an Adult Halfway House shall have any direct financial interest arising from agency business or programs, which would conflict with the performance of his/her duties as a member of the board.~~

11 MCAR § 2.404 G. Reletter as **11 MCAR § 2.408 F.**

11 MCAR § 2.404 H. Reletter as **11 MCAR § 2.408 G.**

~~**11 MCAR § 2.408 Execution of policy: The facility administrator.**~~

11 MCAR § 2.408 A. Reletter as **11 MCAR § 2.408 H.**

11 MCAR § 2.408 B. Reletter as **11 MCAR § 2.408 I.**

11 MCAR § 2.408 C. Reletter as **11 MCAR § 2.408 J.**

11 MCAR § 2.408 D. Reletter as **11 MCAR § 2.408 K.**

11 MCAR § 2.408 E. Reletter as **11 MCAR § 2.408 L.**

11 MCAR § 2.416 Personnel.

D. The CCF shall have staff available or on call twenty-four (24) hours a day, and seven (7) days a week.

E. The ratio of staff to licensed capacity shall be: not less than one (1) direct service staff person for every ~~six (6)~~ eight (8) residents.

F. The CCF shall make provisions for, and allow time for, a confidential personnel record to be kept for each staff member which should include date of beginning and end of employment, hours, salary or wages, qualifications, evaluations, resume, references, and training sessions.

G.2. The CCF shall provide a minimum of eighteen (18) hours per year of ongoing in-service training programs to help staff and volunteers meet the individual and group needs of residents.

G.4. It is mandatory that at least one employee on each shift, who is providing direct service to residents, has first aid training. Training shall be provided by a Red Cross instructor or a licensed health professional.

I.3. The direct service staff shall have work, education, or volunteer experience in ~~caring for residents~~ in corrections or related ~~experience~~ fields and shall be selected on the basis of their ability to ~~manage the program and work with other members of the staff~~ perform assigned tasks.

K. All employees, including volunteers, providing direct service to residents shall be at least eighteen (18) years of age.

11 MCAR § 2.418 Admissions and placement policies.

C. Medical examination. A CCF shall not keep residents in care unless they have had a medical examination ninety (90) days prior to or thirty (30) days after admission to ascertain the existence of any physical disability or communicable disease.

11 MCAR § 2.420 Program.

D.1. Required work assignments should be appropriate to residents' ages and ability and ~~they~~ residents shall not be required to perform work which is inappropriate for them for physical reasons. Reasonable criteria for safety measures ~~should~~ shall be established when work could be deemed hazardous.

D.5. Staff shall not enter into business arrangements or financial transactions with residents.

11 MCAR § 2.424 Nutrition and food.

~~A. When the CCF provides or contracts for food service, it shall ensure that the service meets or exceeds nutritional standards as recommended by the dietary allowance of the Food and Nutrition Board of the National Research Council.~~

A.B. When the CCF provides or contracts for food service,

the service shall comply with and meet all sanitation and health codes as promulgated by state or local authorities.

B. Dietary service. The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, Food and Nutrition Board, National Research Council, National Academy of Sciences, 8th Edition, 1974. Providing each resident the specific serving per day from each of the following four food groups will satisfy this requirement.

1. Meat or protein group: two or more servings per day. A serving within this group is defined as:

- 1-3 ounces cooked, lean, edible meat
- 2 medium eggs
- 4 tablespoons peanut butter
- 1 cup dry beans

2. Milk group: two servings per day. A serving is defined as:

- 1 cup of milk
- 1 ounce of cheese
- ½ cup cottage cheese

3. Cereal and bread group: four or more servings per day. A serving is defined as:

- ½ to 1 slice of bread
- ½ to ¾ cup cereal
- ½ to ¾ cup of rice
- ½ to ¾ cup of pasta

4. Fruit and vegetable group: four or more servings per day. A serving is defined as:

- ½ cup potatoes
- ½ cup cooked vegetables
- 4 pieces raw vegetables
- ½ cup fruit
- 1 cup juice (citrus, etc.)

11 MCAR § 2.428 Special procedures.

B.5. Written policy and procedures shall ensure that prior to facility restriction (grounding) for up to forty-eight (48) hours, the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

B.6. Written policy and procedures shall ensure that prior to facility restriction for more than forty-eight (48) hours there is an administrative hearing by a person or panel of staff who are not directly involved in the incident leading to the restriction.

B.8. Where extended confinement is necessary, a detention facility (with which previous arrangements have been made) ~~should~~ shall be used.

11 MCAR § 2.428 D.2. Reletter as **11 MCAR § 2.428 C.7.**

11 MCAR § 2.428 D.3. Reletter as **11 MCAR § 2.428 D.2.**

11 MCAR § 2.428 D.4. Reletter as **11 MCAR § 2.428 D.3.**

F. Searches. In compliance with applicable laws, the CCF shall maintain and make public, written policies and procedures for conducting searches of residents, their belongings, and all areas of the facility to control contraband and locate missing or stolen property.

11 MCAR § 2.432 Physical facility.

D.1. New or renovated buildings. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be suitably aligned with the purpose of the ~~a~~Adult ~~h~~Halfway ~~h~~House and shall be submitted to the following authorities for approval:

D.3.a. ~~Single bed rooms~~ Single bedrooms shall provide at least seventy (70) square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are one hundred (100) square feet of useable floor area with a side dimension of not less than nine (9) feet.

D.3.b. Multi-bed bedrooms shall provide at least sixty (60) square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one (1) foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bed bedrooms shall provide at least eighty (80) square feet of useable floor area. Multi-bed bedrooms for active, non-ambulatory, mobile residents shall be at least one hundred (100) square feet per resident. Mobility space at the end and one side of each bed shall be not less than four (4) feet per resident.

~~D.5.c. Each living unit shall have at least one (1) room with beds and private bath reserved for use of staff when on duty and sleeping in. If fulltime staff reside in the CCF, they shall be provided with a living room, bedroom and bath.~~

D.7. Every facility shall be equipped with adequate and conveniently located toilet rooms for its employees and residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet to every ten (10) residents and at least one (1) washbasin for every six (6) residents. At least one (1) bath or shower shall be available for every eight (8) residents.

D.8. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every twenty (20) residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

~~F.1.2. An Adult Halfway House~~ CCF shall not have roomers or boarders in the facility without special permission from the facility administrator.

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~~F.2.3.~~ The ~~Adult Halfway House~~ CCF shall keep the commissioner notified as to the presence of all persons living in a CCF other than staff and residents.

11 MCAR § 2.432 F.4. Reletter as 11 MCAR § 2.432 F.3.

~~F.4.1.~~ An ~~Adult Halfway House~~ CCF shall not concurrently hold a license for family day care, or group day care without prior approval by the commissioner.

11 MCAR § 2.436 Health care and medical services.

B. Medical coverage shall be ~~arranged~~ determined for each resident upon admission to the program.

D. The program health care plan shall adhere to State and Federal laws and rules regarding distribution of medications. The plan shall stipulate that medications be administered only as instructed by a licensed physician.

I. The CCF shall have first aid equipment, which meets American Red Cross standards available at all times for medical emergencies.

~~J.~~ ~~The CCF shall maintain an inventory control list of first aid equipment and supplies to ensure sufficient availability of equipment and supplies at all times.~~

11 MCAR § 2.440 Records and evaluation.

A.3. All dissemination on data on residents will be in accord with the Minnesota Government Data Privacy Act. All information is public, unless otherwise classified by State statute, federal law, or emergency or temporary classification.

~~A.4.3. Resident~~ The content of the resident's record and data collected by the CCF shall be shared with individuals or agencies directly involved in the resident's treatment plan. When such information is provided, residents shall be informed. All dissemination of residents' records and information shall be subject to governed by Minn. Stat. § 15.162, subs. 3., 5., and 5.a., and any other applicable state or federal law.

~~A.5.4.~~ Except in situations covered by afornmentioned part 3, ~~the CCF shall provide that a Release of Information Consent Form shall be signed by the resident immediately before each release of information concerning the resident is completed, and a copy of the consent form shall be maintained in the resident's record.~~

~~A.6.5.~~ The CCF shall have a written policy which conforms at a minimum to applicable federal law, that relates to the Release of Information Consent Form, which includes:

A.8. Residents shall have access to their files upon request at a time convenient to staff as permitted by law.

Chapter Two: Group Foster Homes

11 MCAR § 2.444 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the

detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other state regulating agencies. The rules which follow are intended to fulfill that requirement for all ~~C~~correctional Group Foster Homes.

B. The Commissioner of Corrections, has, pursuant to Laws of 1978, ch. 778, § 6, appointed a citizens' advisory task force to assist in the development of rules contained herein.

11 MCAR § 2.444 B. Reletter 11 MCAR § 2.444 C.

~~D.C.~~ Compliance with the requirements stated herein is the responsibility of the Group Foster Parents. ~~In addition to these rules, the Department of Corrections has Operating Guidelines For Sponsoring Agencies Establishing Group Foster Homes. These Operating Guidelines describe the responsibilities of the Supervising Agent, Coordinator and Sponsoring Agency of a Group Foster Home. The rules and the Operating Guidelines should be read in conjunction with one another in order to get a complete understanding of the administration of Group Foster Homes.~~

11 MCAR § 2.445 Definitions.

A. "Youth" are persons who are under eighteen (18) years of age.

E.1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) ~~may~~ shall be issued for another six (6) month period if the applicant is temporarily unable to substantially comply conform with the requirements of these rules.

E.4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial ~~compliance~~ conformance with licensing requirements.

G. "Group Homes," "Group Foster Homes" or "GFH" shall mean a residential facility where not more than eight (8) delinquent youths are cared for by Group Foster Parents on a twenty-four (24) hour a day basis.

H. "Operating guidelines" is the State of Minnesota Department of Corrections' policies and procedures for sponsoring agencies and governing boards for the operation of GFHs.

11 MCAR § 2.445 I. Reletter as 11 MCAR § 2.445 H.

11 MCAR § 2.445 J. Reletter as 11 MCAR § 2.445 I.

11 MCAR § 2.445 K. Reletter as 11 MCAR § 2.445 J.

~~K.L.~~ "Group Foster Parents" means the person(s) who carry(ies) out the continuing daily living program in a Group Foster Home and provide(s) care to the youths. The Group Foster Parents may be a married couple or a single adult who is twenty-one (21) years of age or older.

11 MCAR § 2.445 M. Reletter as 11 MCAR § 2.445 L.

11 MCAR § 2.445 N. Reletter as 11 MCAR § 2.445 M.

11 MCAR § 2.445 O. Reletter as 11 MCAR § 2.445 N.

~~O.P.~~ "Supervising agent" is the probation officer or parole agent working with an individual youth or with a set of youths living in a single Group Foster Home, or the equivalent of a supervising agent in privately operated homes.

~~Q.~~ "Courtesy supervision" is supervision, on a regular basis, of an individual youth (or a set of youths living in a single Group Foster Home) by a probation officer or parole agent assigned to the youth's (or youths') case(s) in lieu of or in addition to supervision by a regular supervising agent who does not work within the county in which the Group Foster Home is located.

11 MCAR § 2.445 R. Reletter as **11 MCAR § 2.445 P.**

11 MCAR § 2.445 S. Reletter as **11 MCAR § 2.445 Q.**

11 MCAR § 2.445 T. Reletter as **11 MCAR § 2.445 R.**

S. "Substantially conform" or "substantial compliance" as used in this rule shall mean compliance with 70% or more of all rules applicable to a facility's classification as stated herein, and, additionally, shall mean compliance with 70% or more of all rules applicable to a facility's classification in each section of these rules. "Section" as used in this definition means the entire area or subject matter under a given rule, e.g., 11 MCAR §§ 2.445, 2.446. etc.

11 MCAR § 2.446 Procedures for licensing.

A. Legal basis. The Minnesota State Department of Corrections (the commissioner) is authorized to establish procedures for licensing Group Foster Homes which are maintained and operated in conformity with the rules and standards authorized by Minn. Stat. § 241.021, ~~subd. 1 (1976)~~ (1978).

B. All Group Foster Homes will be inspected pursuant to Minn. Stat. § 241.021, and all such inspections shall be according to the standards set forth herein.

~~C.B.~~ Original application for license.

C.1. New applicants shall file application with the Commissioner of Corrections thirty (30) days prior to the date the facility expects to operate. The commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

~~C.2.h. Evidence of approval by fire, safety and health departments.~~

C.2.h. Written documentation that all fire and safety, and health rules, and zoning ordinances are met.

~~D.C.~~ Renewal license.

D.2.a. Evidence that sometime during the twelve (12) months prior, each ~~g~~Group ~~f~~Foster ~~p~~Parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray;

~~D.2.d. Evidence of approval by fire, safety and health departments.~~

D.2.d. Written documentation that all fire and safety, and health rules, and zoning ordinances are met.

~~E.D.~~ Provisional license.

E.1. A provisional license will be 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) ~~may~~ shall be issued for another maximum six (6) month period if the facility is not yet in substantial ~~compliance~~ conformance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional licenses shall not be renewed so as to exceed one (1) year.

E.2.c. Evidence that sometime during the twelve (12) months prior each Group Foster ~~Home~~ Parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray.

E.3. If, at the end of the six (6) month provisional period, the facility is in substantial conformance with these rules, a full license will be issued.

E.6. GFH licenses will be issued by the Department of Corrections for a specific number of residents, not exceeding eight (8) youth.

11 MCAR § 2.446 F. Reletter as **11 MCAR § 2.446 G.**

G.2. Written documentation that all fire, health and safety rules are met shall be on file with the commissioner. In those jurisdictions where a Fire Marshall report is not required, the applicants shall complete and submit a Fire Safety Checklist supplied by the commissioner.

~~G. Waiver of specific regulation. If in the licensing procedure or enforcement of the standards, the commissioner finds: the commissioner may grant a waiver of specific rules. The granting of a waiver shall not constitute a precedent for any other Group Foster Home.~~

H. Waiver of specific rule. The granting of a waiver under this section shall not constitute a precedent for any other GFH. The commissioner shall grant a waiver of a specific rule, if in the licensing procedure or enforcement of the standards, the commissioner finds that:

1. ~~That to~~ To require a particular Group Foster Home to comply strictly with one or more of the provisions will result in undue hardship;

2. The Group Foster Home is otherwise in substantial ~~compliance~~ conformance with said standards and their general purpose and intent; ~~and~~

3. The Group Foster Home complies with such specific condition(s) as the commissioner may deem necessary for the protection of the health, safety, and welfare of the residents; ~~and~~

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."

ADOPTED RULES

11 MCAR § 2.446 H. Reletter as **MCAR § 2.446 I.**

11 MCAR § 2.446 I. Reletter as **11 MCAR § 2.446 J.**

~~K.J.~~ Provision, revocation, suspension and denial of license. A provisional license may be granted if the facility does not substantially ~~comply~~ conform with licensing requirements. The facility will be given a specific period of time in which to do so, pending revocation or suspension of license if the requirements are not met. A license may be revoked and suspended by the commissioner if the facility does not maintain compliance with the minimum standards; or if an applicant has violated any federal or state law; or if the applicant has a poor operating history in this state or any other state.

11 MCAR § 2.446 K. Reletter as **11 MCAR § 2.446 L.**

~~L.~~ Appeal procedure for denial, suspension and revocation of license. Any applicant who feels aggrieved by the commissioner's action may appeal the commissioner's decision in the following manner:

~~1.~~ The operator shall be given written notice of action and shall be informed of the right to appeal the decision of the commissioner. The operator must appeal the decision in writing to the commissioner within ten (10) days from the operator's receipt of the notice of action. Upon receiving a timely written appeal, the commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner appointed by the State Board of Hearing Examiners. The hearing examiner shall recommend to the commissioner as to whether the license shall be granted, denied, suspended, or revoked. The commissioner shall not be bound by the decision of the hearing examiner. The decision of the commissioner shall be served on the operator by certified mail with a return receipt.

~~2.~~ At any hearing, the operator may be represented by counsel and shall have the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on the behalf of any party. Each decision by the hearing examiner shall be in writing, shall contain findings of fact and conclusion, and shall be mailed to the parties by certified or registered mail with a return receipt. Unless the situation has been found by the commissioner to be hazardous to the health of residents, a facility may continue to operate, but may not initiate operations, pending a decision of the hearing examiner.

M. Appeal procedure for denial, suspension and revocation of license. Any applicant who feels aggrieved by the commissioner's action may appeal the commissioner's decision in the following manner: The operator shall be given written notice of action and shall be informed of the right to appeal the decision of the commissioner. The operator must appeal the decision in writing to the commissioner within ten (10) days from the operator's receipt of the notice of action. Upon receiving a timely written appeal, the commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner.

~~N.M.~~ When a GFH license has been revoked or not renewed because of non-compliance with applicable laws, it shall not be granted a new license for ~~not less than a period of one (1) year and up to five years, at the discretion of the commissioner.~~ following the revocation, denial or non-renewal.

11 MCAR § 2.446 N. Reletter as **11 MCAR § 2.446 O.**

11 MCAR § 2.450 Severability.

If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

11 MCAR § 2.456 Group Foster Parent qualifications.

A.1.a. A conviction for, or admission of, or substantial evidence of an act of child battering, or child abuse, or child molesting, or child neglect, or incest within the previous five (5) years, ~~and at the discretion of the commissioner within ten (10) years.~~ Reasonable methods of discipline shall not constitute child battering, child abuse, child molesting, child neglect or incest.

B. All Group Foster Parents shall be at least twenty-one (21) years of age at the time of licensure.

11 MCAR § 2.464 Training for Group Foster Parents.

A. Every set of Group Foster Parents shall participate in a minimum of eighteen (18) hours annually of training related to foster care. The eighteen (18) hours may be shared between the Group Foster Parents in the home. When the Group Foster Parents have not completed the required annual training at the time of relicensure, no further placements may be made in that GFH until the Group Foster Parents have complied with the training requirements.

A.1.f. The meaning of family life a foster youth's natural parents;

C. The Group Foster Parents shall make suitable arrangements for the care of foster youths for any periods of vacation, illness, disability or emergency; and the supervising agent or coordinator shall approve the arrangements. Substitute Group Foster Parents shall have the same qualifications as the regular Group Foster Parents (see Group Foster Parent Qualifications, § 2.456), and shall have access to Group Foster Parents' training opportunities (see Training for Group Foster Parents § 2.464).

11 MCAR § 2.470 Program.

A. Orientation. At the time of intake, ~~g~~Group ~~f~~Foster ~~p~~Parents shall discuss program goals, service(s) available, rules governing conduct, program rules, and possible disciplinary actions with the residents; this shall be documented.

11 MCAR § 2.474 Special procedures.

A.2. The Group Foster Parents shall be responsible for ensuring that a copy of the written grievance procedure written by the governing body ~~of~~ the sponsoring agency shall be available to

each resident. The procedure shall outline rules of the facility, residents' rights and the actual grievance procedure.

D. Room restriction, facility restriction and privilege suspension.

1. Room restriction shall not exceed eight (8) hours. The resident shall be observed by a Group Foster Parent or staff person at least hourly.

2. Prior to room restriction, facility restriction or privilege suspension the resident shall have the reasons for the restriction or suspension explained to him/her, and have an opportunity to explain the behavior leading to the restriction or suspension.

3. All instances of room restriction, privilege suspension and facility restriction shall be logged, dated and signed by the Group Foster Parent(s) implementing the disciplinary procedure; the log shall be reviewed by the supervising agent or coordinator.

~~E. D.~~ Security procedures. Group Foster Parents shall be accountable for the whereabouts and conduct of residents who have been referred by a court or the Department of Corrections.

11 MCAR § 2.474 E. Reletter as **11 MCAR § 2.474 F.**

11 MCAR § 2.474 F. Reletter as **11 MCAR § 2.474 G.**

11 MCAR § 2.474 G. Reletter as **11 MCAR § 2.474 H.**

11 MCAR § 2.478 Physical facility.

A.2.a. Single bedrooms shall provide at least seventy (70) square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are one hundred (100) square feet of useable floor area with a side dimension of not less than nine (9) feet.

A.2.b. Multi-bedrooms shall provide at least sixty (60) square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bedrooms shall provide at least eighty (80) square feet of useable floor area. Multi-bedrooms for active, non-ambulatory, mobile residents shall be at least one hundred (100) square feet per resident. Mobility space at the end and one side of each bed shall be not less than four (4) feet, per resident.

A.6.a. Every facility shall be equipped with adequate and conveniently located toilet rooms for its residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet and at least one (1) washbasin for every eight (8) residents.

A.7. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every sixteen (16) residents, or equivalent

laundry capacity available in the immediate vicinity of the facility.

~~B.4. The commissioner, the supervising agent and any courtesy supervising agent and any supervising agent shall have access to the GFH for evaluation at any time during normal working hours and at other times by mutual agreement. For the purpose of investigating complaints concerning the health and safety of the youths, the commissioner, the supervising agent and any courtesy supervising agent and any supervising agent shall have access to the GFH at any time during the twenty-four (24) hour day.~~

11 MCAR § 2.482 Health care and medical services.

~~A. Although the policies and procedures of the Department of Corrections' Operating Guidelines instruct sponsoring agencies and governing boards to arrange medical and dental coverage for each resident, group foster parents shall be responsible for implementing the arrangements.~~

A. Group Foster Parents shall be responsible for assisting in arranging for medical and dental care for each resident.

B. If a resident is suspected of having a communicable disease, the ~~g~~Group Foster Parents shall see that he/she is given a physical examination by a qualified physician and any necessary treatment.

~~F. The Group Foster Parents shall maintain an inventory control list of first aid equipment and supplies to ensure sufficient availability of equipment and supplies at all times.~~

~~G. At least one Group Foster Parent shall be trained in emergency first aid procedures.~~

11 MCAR § 2.486 Nutrition and food.

~~A. When the group foster parents provide food, they shall ensure that the food meets or exceeds nutritional standards as recommended by the dietary allowance of the Food and Nutrition Board of the National Research Council.~~

A. When the GFH provides or contracts for food service, the service shall comply with and meet all sanitation and health codes as promulgated by state or local authorities.

B. Dietary service. The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, Food and Nutrition Board, National Research Council, National Academy of Sciences, 8th Edition, 1974. Providing each resident the specific serving per day from each of the following four food groups will satisfy this requirement.

1. Meat or Protein Group: Two or more servings per day. A serving within this group is defined as:

- 1-3 ounces cooked, lean, edible meat
- 2 medium eggs
- 4 tablespoons peanut butter
- 1 cup dry beans

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."

ADOPTED RULES

2. Milk group: four servings per day. A serving is defined as:

- 1 cup of milk
- 1 ounce of cheese
- ½ cup cottage cheese

3. Cereal and bread group: four or more servings per day. A serving is defined as:

- ½ to 1 slice of bread
- ½ to ¾ cup cereal
- ½ to ¾ cup of rice
- ½ to ¾ cup pasta

4. Fruit and vegetable group: four or more servings per day. A serving is defined as:

- ½ cup potatoes
- ½ cup cooked vegetables
- 4 pieces raw vegetables
- ½ cup fruit
- ½ cup juice (citrus, etc.)

~~C.B.~~ A minimum of three (3) meals a day shall be available for residents unless an contract agreement state otherwise. The Group Foster Parents shall ensure that the youths receive adequate meals during the day while they are in community activities. This shall include participation in a school lunch program.

11 MCAR § 2.490 Records.

A. Residents' records maintained by ~~Group Foster Home~~ supervising agent, or coordinator, or sponsoring agency.

A.3. Each record shall have a face sheet bearing factual data and identifying information. ~~The face sheet~~ Group Foster Parents are required to keep a copy of the face sheet which shall include the following:

A.4. Group Foster Parents shall refer any individuals or agencies requesting resident data to the supervising agent of the Youth.

~~A.5. Unless applicable law provides otherwise, all case records must be turned over to the Supervising Agent after discharge of the resident.~~

SUPREME COURT

Decisions Filed Friday, December 28, 1979

Compiled by John McCarthy, Clerk

49052/246 **In the Matter of the Application of Michael Herbert Dengler for Change of Name to 1069, Hennepin County.**

Minn. Stat. §§ 259.10, .11 (1978) dealing with applications for a name change were not intended to authorize judicial approval of a change from a name to a numeral.

Affirmed. Otis, J.

49288/344 **Curtis R. Broughton vs. Curran V. Nielsen Company, Inc., Appellant, John Sahf Construction, Inc., Curran V. Nielson Company, Inc., third party plaintiff, Appellant, vs. John Sahf Construction, Inc., third party defendant, Anderson Heating and Roofing Inc., third party defendant. Dodge County.**

In a negligence case arising out of a construction site accident, it was not reversible error for the trial court to deny an instruction defining the duties of the general contractor and the subcontractors where the court correctly charged the jury on the need to use reasonable care.

The jury's verdict was supported by sufficient evidence.

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

49491/465 **In the Matter of the Welfare of Anthony Lawrence Walker. Ramsey County.**

The finding that appellant abandoned his child and substantially and continuously refused to give him necessary parental care and protection is based on clear and convincing evidence and justifies the termination of appellant's parental rights.

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

49021/485 **State of Minnesota vs. John Michael McLevis, Appellant. Ramsey County.**

The evidence of defendant's guilt was sufficient for conviction.

The trial court did not abuse its discretion in denying a motion for a continuance.

Affirmed. Otis, J.

49627/419 **James W. Trollen, d.b.a. Trollen Marine, vs. City of Wabasha, Wabasha County.**

Where a lessee has a right to extend a lease, provided he gives the lessor notice by a specific time that he intends to exercise that right, and the lessee neglects to give timely notice, equity may relieve against loss of the right to extend when the negligence is not willful or gross, the delay is slight, the prejudice to the lessor minimal, and the hardship to the tenant would make literal enforcement of the requirement unconscionable.

Affirmed. Rogosheske, J.

SUPREME COURT

49359/486 State of Minnesota vs. Archibald Patrick Ryder, Appellant. Dakota County.

Defendant, by failing to object at trial to conduct by the prosecutor which defendant now contends was improper, forfeited his right to raise the issue on appeal.

Affirmed. Scott, J.

49205/494 State of Minnesota vs. Owen James Ashland, Appellant. Anoka County.

Evidence held sufficient to support conviction for criminal sexual conduct in the first degree based on findings that sexual misconduct occurred under circumstances where the victim had a "reasonable fear of imminent great bodily harm."

Defendant, by his failure to object, seek cautionary instructions, or move for mistrial, must be deemed to have forfeited his right to have this court consider certain alleged trial errors.

Affirmed. Scott, J.

49024/310 In the Matter of the Application for the Disbarment of James C. Wackerbarth, an Attorney at Law of the State of Minnesota. Supreme Court.

Where an attorney converts clients' funds, neglects clients' matters, under oath files false probate accounts, and fails to file state and federal income tax returns, and no mitigating circumstances are shown, disbarment is warranted.

Disbarred. Per Curiam.

50274/392 In the Matter of the Application for the Discipline of James Emmanuel Kerr, an Attorney at Law of the State of Minnesota. Supreme Court.

Attorney convicted of wilfully and knowingly failing to file his income tax return presented mitigating circumstances sufficient to avoid the suspension or disbarment rule established in *In re Bunker*, 294 Minn. 47, 199 N.W.2d 628 (1972).

Five years probation ordered. Per Curiam.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

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

Department of Health Community Services Division

Notice of Request for Proposals of Planning Consultant for Pediatric Transitional Medical Care

The Services for Children with Handicaps program of the Minnesota Department of Health is requesting the services of a planning consultant to assist the program in studying the issue of pediatric transitional medical care in Minnesota. This project is in cooperation with a coalition of voluntary groups, The Children's Transitional Care Project Coalition, of St. Paul.

Following a careful review of the Coalition's report, the consultant would undertake the following tasks:

1. Assess the need for a transitional care resource in the Twin City metropolitan area reviewing hospital discharge data and other relevant information. For these purposes transitional care is defined as limited (4 week to six month) medical care of a

child whose condition has a favorable prognosis and who requires skilled pediatric nursing care but not necessarily the intensive level of services available in an acute hospital bed.

2. To explore present reimbursement policies for acute pediatric care and the potential for adaptation of these policies in a transitional care setting.

3. Define present licensing requirements, restrictions, and potential for a transitional care resource and to plan for resolution of any licensing obstacles.

4. Develop a description of a model transitional care resource utilizing knowledge of existing need, programs and facilities in the metropolitan area.

5. Provide consultation to a committee of interested agency and facility representatives organized by Services for Children with Handicaps/Coalition.

The proposal should include a timetable and projected budget for consultation. A four to six month-time frame is desirable. All interested parties should submit a letter of intent two weeks following publication of this Request for Proposals, with a proposal available by February 15, 1980. Letters of intent should be addressed to Richard P. Nelson, M.D., Director, Services for Children with Handicaps, 2829 University Avenue Southeast, Suite 840, Minneapolis, Minnesota 55414.

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.

Department of Commerce Banking Division

Bulletin No. 2161: Maximum Lawful Rate of Interest for Mortgages for the Month of January 1980

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to House File No. 564, Chapter 279, 1979 Session Laws, as it amended Minn. Stat. § 47.20, subd. 4, effective May 31, 1979, hereby determines that the maximum lawful rate of interest for home mortgages for the month of January, 1980, is thirteen (13.00) percent.

December 27, 1979

Michael J. Pint
Commissioner of Banks

Board of Cosmetology

Notice of Correction Regarding Public Hearing on Rules for Continuing Education of Licensed Senior Instructors

The Notice of Hearing on the above captioned rules, published at *State Register*, Volume 4, Number 26, December 31, 1979, p. 1066, contained an error. The public hearing will be held on Friday, February 8, 1980, rather than on Monday, as printed.

January 2, 1980

Ailie Norlin
Executive Secretary

Department of Economic Security Office of Economic Opportunity

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Relating to Providing State Grants to Community Action Agencies under the Minnesota Economic Opportunity Grant Program

Notice is hereby given that the Department of Economic Security/Office of Economic Opportunity is considering adoption of a rule which would regulate the granting of state money to Community Action Agencies for community action activity.

The proposed rule will affect the procedures required of Community Action Agencies for application, approval and maintenance of a grant under the Minnesota Economic Opportunity Grant Program. The program itself is authorized by Laws of 1979, ch. 336, § 3.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. Fred L. Aden
Department of Economic Security/Office of
Economic Opportunity
Room 690, American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: (612) 296-1462

All statements of information and comment must be received by February 1, 1980. Any written material received by this date will become part of the record of any rules hearing held on this subject.

December 28, 1979

Beverly J. Gleeson
Director

Ethical Practices Board

1980 Campaign Expenditure Limits

In accordance with Minn. Stat. § 10A.25, subd. 7, the following campaign expenditures will be applicable in calendar year 1980.

OFFICE	NON-ELECTION YEAR	ELECTION YEAR
Governor/Lt. Governor	\$120,000	
Attorney General	\$20,000	
Secretary of State, State Treasurer, State Auditor	\$10,000	
State Senate		\$15,000
State House of Representatives		\$7,500

Office of the Governor

Statewide Health

**Coordinating Council
Nominations Solicited**

Notice is hereby given that nominations are being accepted by the Governor to fill expired terms of members on the Statewide Health Coordinating Council (SHCC). The Council has been established and operates according to provisions of the National Health Planning and Resources Development Act and the SHCC operating procedures. The Governor appoints members to the SHCC for three year terms.

Application forms may be obtained from the Governor's Office, 130 State Capitol, St. Paul, MN 55155; (612) 296-4030. **Application deadline is Tuesday, January 22, 1980.**

The SHCC is composed of 35 members representing both consumers and providers of health care. A majority must be consumers. Twenty-one of these members are representatives of the state's seven health systems agencies (HSAs). Each HSA is represented by 3 members. 2 of whom are consumers of health care and one who is a provider of health care. The nominees for these appointments which are made by the Governor come from each health system agency.

There are 13 at-large members selected to represent varied other interests in Minnesota. One individual represents the Veterans Administration facilities in the state.

This announcement is for at-large nominees to SHCC. The four vacancies are as follows:

Grace Kraft, 119 North First St., Cannon Falls 55009; at large member/consumer; terms expires January, 1980.

Tom Nelson, 1206 5th Avenue NW, Austin 55912; at large member/consumer; term expires January, 1980.

Vernon Sommerdorf, 1 Kennard Court, St. Paul 55105; at large member/provider; term expires January, 1980.

Vacancy, at large member/consumer; term expires January, 1980.

Minnesota State Agricultural Society

Minnesota State Fair

Annual Meeting Notice

The 121st annual meeting of the Minnesota State Agricultural Society, governing body of the State Fair, will be held Jan. 20, 21 and 22 at the Radisson St. Paul Hotel. It will be followed by meetings of the society's board of managers Jan. 22 and 23.

A complete program of all scheduled meetings is available during regular business hours at the Administration Building on the fairgrounds, Falcon Heights, or at the hotel during the meeting.

Pollution Control Agency

**Notice of Intent to Solicit Outside
Opinion Concerning Review of
Existing Rules NPC1 Definitions,
severability and variances for
noise pollution control. NPC2
Noise standards.**

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) has extended the comment period for these rules from December 31, 1979, to March 3, 1980. (Original notice published November 26, 1979.)

Terry Hoffman
Executive Director

Department of Public Welfare

Executive Division

**Notice of Intent to Solicit Outside
Opinion Concerning Continuing
Education for Human Service
Board Directors**

Notice is hereby given that the Department of Public Welfare is considering a proposed rule, 12 MCAR § 2.450.

The proposed rule will govern continuing education requirements for human service board directors and is required by Minn. Stat. §402.05, subd. 1a (1979).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be

made orally or in writing. Written statements of information and comment may be addressed to:

Peter F. Ampe, Director of Staff Development
Minnesota Department of Public Welfare
Centennial Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-5611.

All statements of information and comment must be received by January 31, 1980. Any written material received by the Department shall become part of the hearing record.

Secretary of State

Notice of Vacancy in Multi-Member State Agency

Notice is hereby given to the public that a vacancy has occurred in a multi-member state agency, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155; (612) 296-2805. **Application deadline is Tuesday, January 22, 1980.**

BOARD OF ASSESSORS has one vacancy open immediately for a public member. The board licenses assessors. Meetings are held monthly; members must file with the Ethical Practices Board. For further information, contact William Slavin, (612) 296-5040.

STATE OF MINNESOTA
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408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

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