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STATE REGISTER

STATE OF MINNESOTA

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February 23, 1981

Pages 1287-1314



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 5			
35	Friday Feb 13	Monday Feb 23	Monday Mar 2
36	Monday Feb 23	Monday Mar 2	Monday Mar 9
37	Monday Mar 2	Monday Mar 9	Monday Mar 16
38	Monday Mar 9	Monday Mar 16	Monday Mar 23

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

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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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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CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Inclusive listing for Issues 27-34. 1290

PROPOSED RULES

State Board of Education Department of Education

Special and Compensatory Education Division
Standards and Procedures of Special Education
Instruction and Services for Children and Youth
Who Are Handicapped [amendments to existing
rules] 1291

State Board of Education Department of Education Special Services Division

Licensure Requirements for Head Varsity Coaches
of Interscholastic Sports in Senior High Schools
[new rules] 1293

State Board of Education Department of Education Special Services Division

Prohibition of Discriminatory Practices in Athletic
Programs in Public and Private Elementary and
Secondary Schools [new rules]. 1295

Energy Agency

Alternative Energy Development Division
Certification of Solar Collectors to Qualify Renewable
Energy Source Expenditures for the Minnesota
Individual Income Tax Residential Energy Credit
[proposed temporary; Request for Public Comment
printed at S.R. 1305] 1298, 1305

Public Welfare Department Mental Health Bureau

Approval of Mental Health Centers and Clinics
[proposed temporary] 1298

SUPREME COURT

Decisions Filed Friday, February 13, 1981

51351/Sp. William Bliss, Relator, v. Minneapolis Star
and Tribune Company. Workers' Compensation
Court of Appeals 1306
51160/Sp. State of Minnesota, by Its Minnesota State
Ethical Practices Board, v. The Red Lake DFL
Committee, Appellant. Beltrami County 1306

OFFICIAL NOTICES

Commerce Department Insurance Division

Petition by the Workers' Compensation Insurers
Rating Association of Minnesota for Changes
in the Basic Manual for Workers' Compensation
and Employers' Liability. Docket No.
INS-81-009-JL 1306

Energy Agency

Alternative Energy Division
Outside Opinion Sought Regarding Rules Governing
Certification of Solar Collectors to Qualify
Renewable Energy Source Expenditures for the
Minnesota Individual Income Tax Residential
Energy Credit. 1307

Higher Education Coordinating Board

Outside Information Sought Regarding Proposed
Amendment of Rules Governing Scholarship and
Grants-in-aid; Work-study Grants; Minnesota
State Student Loan Program; Minnesota Foreign
Student Assistance; Veterans' Dependents Student
Assistance; Part-time Student Grants; Private
Institutions Registration; and the Area Vocational-
technical Institute Tuition Subsidy Program 1307

Minnesota State Retirement System

Regular Meeting, Board of Directors 1308

Office of the Secretary of State

Notice of Vacancies in Multi-member State
Agencies 1308

Board of Teaching

Outside Opinion Sought Concerning Proposed Rules
Governing the Licensure of Elementary School
Classroom Teachers; Licensure of Teachers in
Middle Schools; Procedures for the Issuance of Life
Licenses; Procedures for the Revocation or
Suspension of Minnesota Teaching Licenses; Letters
of Approval for Teachers to Teach Subjects or
Fields for Which Current Valid Minnesota
Licensure Is Not Held. Procedures for the
Voluntary Surrender of Minnesota Teaching
Licenses 1308

Transportation Department

Petition of Chicago, Milwaukee, St. Paul and Pacific
Railroad Company for Authority to Abandon and
Remove Tracks Owned by Petitioner between
Washington Avenue and Second Street, Approxi-
mately Four to Five Blocks East of the Milwaukee
Road Passenger Depot in Minneapolis, MN
[Notice of and Order for Hearing, and Amended
Notice of Appearance] 1309

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:

- Calendar of Public Hearings on Proposed Rules.
• Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A 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:

Table with 2 columns: Issue/Range and Cumulative/Range. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issue 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the MCAR.

MCAR AMENDMENTS AND ADDITIONS

TITLE 2 ADMINISTRATION

Part 1 Administration Department

2 MCAR §§ 1.6601, 1.6701-1.6705 (adopted) 1256
2 MCAR § 1.18601 (proposed) 1159

Part 2 Employee Relations Department

2 MCAR § 2.198 (adopted) 1160

TITLE 3 AGRICULTURE

Part 2 Board of Animal Health

3 MCAR §§ 2.001, 2.011, 2.012 (adopted) 1112

TITLE 4 COMMERCE

Part 1 Commerce Department

SDiv 2006, 2009, 2012-2019, 2022, 2024-2025, 2027-2030, 2036, 2039, 2050-2052, 2057, 2113, 2115, 2117-2119, 2122-2126, 2135; Form 101, Form ADV, Form "Quarterly Report," Form BD; 4 MCAR §§ 1.2127, 1.2140-1.2146, 1.2150-1.2151 (adopted) 1256
4 MCAR §§ 1.9251-1.9252 (proposed) 1215
4 MCAR §§ 1.9288-1.9289, 1.9291-1.9292 (proposed) 1187

Part 14 Small Business Finance Agency

4 MCAR §§ 14.001-14.004, 14.010-14.012 (proposed) 1253

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR §§ 1.0104-1.0105, 1.01041-1.01044, 1.01046-1.01047 (proposed) 1131
5 MCAR § 1.0127 (proposed) 1291
5 MCAR §§ 1.0820-1.0823, 1.0860-1.0863, 1.0880-1.0883 (extended temporary) 1263
5 MCAR §§ 1.0523-1.0524, 1.0526-1.0529, 1.05291, 1.0530, 1.05301, 1.0531-1.0532, 1.05321, 1.05331, 1.0535, 1.05361 (proposed) 1236
5 MCAR § 1.0533 (proposed) 1293
5 MCAR §§ 1.0667-1.0672 (proposed) 1295

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

6 MCAR § 1.2220 (proposed) 1252

Part 2 Energy Agency

6 MCAR § 2.1500 (proposed temporary) 1298, 1305
6 MCAR § 2.2120 (proposed) 1111
6 MCAR §§ 2.2301-2.2303, 2.2305-2.2307 (adopted temporary) 1161
6 MCAR §§ 2.3101-2.3108 (adopted temporary) 1091

Part 4 Pollution Control Agency

6 MCAR § 4.0001 (proposed) 1066
6 MCAR § 4.6086 (proposed) 1069
6 MCAR §§ 4.8014-4.8015, 4.8024-4.8025 (adopted), WPC 2-3, 5-13, 16-21, 23, 26, 29, 31-32 (repealed) 1136
6 MCAR §§ 4.9001-4.9006, 4.9008 (proposed) 1080

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR § 1.008 (adopted) 1190

TITLE 8 LABOR

Part 1 Labor & Industry Department

8 MCAR § 1.7001 (MOSHC 1) (proposed) 1217
8 MCAR § 4.4010 (adopted temporary) 1258

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department

12 MCAR §§ 2.009, 2.017 (adopted) 1218
12 MCAR § 2.029 (DPW 29) (proposed temporary) 1298
12 MCAR § 2.065 (adopted temporary) 1163
12 MCAR § 2.016 (formerly 2.020) (adopted) 1191
12 MCAR § 2.185 (adopted) 1263

Part 3 Housing Finance Agency

12 MCAR §§ 3.053-3.054 (proposed) 1189

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

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

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

State Board of Education Department of Education Special and Compensatory Education Division

Proposed Rules Governing Standards and Procedures of Special Education Instruction and Services for Children and Youth Who Are Handicapped (5 MCAR § 1.0127 A.5.e.(3))

Notice of Hearing

A public hearing concerning the proposed rule amendment will be held at the Veteran Services Building, Room D, 20 W. 12th Street, Columbus Avenue, St. Paul, MN 55155 on April 3, 1981, commencing at 9:00 a.m. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, 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 Jon Lunde, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, MN 55104, telephone (612) 296-5938 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 §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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 Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The purpose of the rule is to determine whether an independent assessment requested by the parents will be at public expense. 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.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. 120:17, subd. 3.

The board estimates that there will be limited cost to local bodies in the state to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Wayne A. Erickson, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rule, contact Wayne A. Erickson at (612) 296-4163.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the Board. 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 board, in the case of the Board'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 (1979 Supp.) 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 one 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, MN 55155, telephone (612) 296-5615.

January 12, 1981

Howard B. Casmey, Secretary
State Board of Education

Amendment as Proposed

Chapter Seven: Standards and Procedures for the Provision of Special Education Instruction and Services for Children and Youth Who Are Handicapped

5 MCAR § 1.0127 Formal notice to parents.

A. General notice provisions.

5. All notices must be sufficiently detailed and precise to constitute adequate notice for hearing of the proposed action and contain a full explanation of all of the procedural safeguards available to parents under the provision of these rules. All notices must:

e. inform the parents that they may:

(1) obtain an independent assessment at their own expense;

(2) request from the district information about where an independent assessment may be obtained;

(3) ~~request that obtain an independent assessment be conducted at public expense in which case the district has the option of denying such a request. When a district denies such a request, the parents may request a conciliation conference and due process hearing to resolve the disagreement.~~ However, a district may initiate a due process hearing to show that its assessment is appropriate. If the final decision is that its assessment is appropriate, the parents still have the right to an independent assessment, but not at public expense.

**State Board of Education
Department of Education
Special Services Division****Proposed Rule Governing Licensure Requirements for Head Varsity Coaches of Interscholastic Sports in Senior High Schools (5 MCAR § 1.0533)****Notice of Hearing**

A public hearing concerning the proposed rule will be held at Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155 on April 2, 1981, commencing at 9:00 a.m. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, 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 Peter Erickson, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, MN 55104, telephone (612) 296-8118 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 §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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 Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 125.05, as amended by Laws of 1980, ch. 345, § 2.

The board estimates that there will be no cost to local bodies in the state to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to George B. Droubie, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rule, contact George B. Droubie.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the board. 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 board, in the case of the board'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 (1979 Supp.) 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 one 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

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PROPOSED RULES

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.

January 12, 1981

Howard B. Casmey, Secretary
State Board of Education

Rule as Proposed (all new material)

Chapter Twenty-Seven A: Licensure of Supervisory and Support Personnel; Issuance, Suspension, and Revocation

5 MCAR § 1.0533 Head varsity coaches of interscholastic sports in senior high schools.

A. Applicability. Every senior high school shall have a licensed head varsity coach for each interscholastic sport except as otherwise provided in C., below. Each person who is employed and functions as a head varsity coach of an interscholastic sport in a senior high school shall hold a valid Minnesota teaching license and shall satisfactorily complete a preparation program approved by the Minnesota Board of Education leading to the licensure of head varsity coaches of interscholastic sports.

B. Definitions. For purposes of this rule, the following definitions shall apply:

1. Head varsity coach. The teacher who has the primary responsibility for a senior high school varsity interscholastic sport.
2. Interscholastic sports. A sport in which there is scheduled competition with athletic teams of another school within and outside the school district.
3. Senior high school. A secondary school consisting of grades 10-12 or grades 9-12 in a four-year secondary school and grades 9-12 in six-year secondary schools.

C. Scope. Nothing in this rule shall prohibit a school district from employing an unlicensed person as assistant to a licensed head varsity coach of an interscholastic sport or to coach a junior high school sport.

D. Qualifications for licensure. All candidates recommended for licensure as a head varsity coach of interscholastic sports shall have satisfactorily completed a program approved by the Minnesota Board of Education consisting of a maximum of 12 quarter or 9 semester hours containing components designed to provide candidates recommended for licensure with knowledge, skills, and understandings in all of the following areas:

1. First aid and prevention and care of athletic injuries.
2. Science of sports, including principles of anatomy and kinesiology and principles of exercise physiology.
3. Theory and practice of sports techniques.
4. Psychology of sports and coaching.
5. Satisfactory completion of a supervised field experience in coaching consisting of no fewer than 40 clock hours.

E. Alternative route to licensure. A school district may contract with Minnesota colleges and universities which offer approved programs leading to the licensure of head varsity coaches to develop jointly the program of instruction outlined above. Such jointly developed programs must be approved by the Minnesota Board of Education. Recommendation of candidates for head varsity coaching licensure shall be the responsibility of the college or university through which the program was developed.

F. Teachers employed as head varsity, assistant, or junior high school coaches prior to July 1, 1982. A person holding a valid Minnesota teaching license who, prior to the effective date of this rule, is currently employed or was previously employed as a head varsity, assistant, or junior high school coach, as verified by the superintendent of schools of the school district employing the coach, and who can provide verification of completion of six quarter hours or 60 clock hours of instruction in first aid and the prevention and care of athletic injuries shall, upon application, be issued a license as head varsity coach of interscholastic sports.

G. Effective date. The provisions of this rule are effective on July 1, 1982, for applicants for the initial license as a head varsity coach of interscholastic sports.

H. School district hardship situations. In cases where a local school district is unable to employ a licensed head varsity coach of interscholastic sports, the superintendent of such school district may request the commissioner of education to grant a provisional license for one school year and renewable for a maximum of one additional school year to a teacher to serve as a head varsity coach of an interscholastic sport upon evidence submitted by the superintendent of schools that the following conditions have been met:

1. Evidence that the school district is unable to employ a licensed head varsity coach of interscholastic sports for the current school year, and
 2. The person to be employed under such authorization holds a current, valid Minnesota teaching license, and
 3. The person to be employed under such authorization is currently enrolled in a program approved by the Minnesota Board of Education leading to the licensure of head varsity coaches of interscholastic sports.
1. Licenses as head varsity coaches shall be renewed according to provisions of 5 MCAR § 3.005 continuing education/relicensure.

State Board of Education Department of Education Special Services Division

Proposed Rules Governing Prohibition of Discriminatory Practices in Athletic Programs in Public and Private Elementary and Secondary Schools (5 MCAR §§ 1.0667-1.0672)

Notice of Hearing

A public hearing concerning the proposed rules will be held at the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155 on March 27, 1981, commencing at 9:00 a.m. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

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 George Beck, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108 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 §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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 Administrative Hearings. This Statement of Need and Reasonableness will include the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. 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 Administrative Hearings at a minimal charge.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 126.21, subd. 5 as amended by Laws of 1980, ch. 355, § 1.

The board estimates that there will be no cost to local bodies in the state to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the State Department of Education, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rule, contact Dr. Greg Waddick or Archie Holmes, 296-5061 or 296-5020.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the board may not take any final action on the rules for a period of five working days. Any person may request

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PROPOSED RULES

notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the board. 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 board, in the case of the board'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 (1979 Supp.) 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 one 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.

January 12, 1981

Howard B. Casmeay, Secretary
State Board of Education

Rules as Proposed (all new material)

Chapter Thirty-Three: Prohibition of Discriminatory Practices in Education

5 MCAR § 1.0667 Athletic programs. Authority, scope and purpose. These rules are promulgated pursuant to Minn. Stat. § 126.21, subd. 5, as amended by Laws of 1980, ch. 355, § 1. These rules apply to both public and private elementary and secondary schools that operate athletic programs.

5 MCAR § 1.0668 Definitions. All the words below shall have the meaning herein ascribed to them:

A. "Athletic program"—Means all interscholastic and intramural sports offered to students by public and private elementary and secondary educational institutions.

B. "Interscholastic athletic program"—Means all athletic activities offered within a school the purpose of which is to provide opportunities for students to compete with other students on like teams in other schools within an organized conference under the auspices of the Minnesota State High School League or with other like teams in other schools operating under separate jurisdictions.

C. "Intramural athletic program"—Means all non-interscholastic athletic activities offered within a school, which are not a part of the regular physical education curriculum, designed to provide students athletic opportunities, experiences and the development of competencies in a variety of sports.

D. "Participate"—Means for interscholastic sports, a student has been selected by the coach to be a member of a particular athletic team, inclusive of both varsity and junior varsity teams, after the try-out period has ended.

E. "Participation rate for a particular sex in the interscholastic athletic program"—Means the ratio of the number of participants of that sex in the athletic program to the number of students of that sex in the student body.

F. "Participation rate for a particular sex in the intramural athletic program"—Means the ratio of the number of participants of that sex in the athletic program to the number of students of that sex in the student body.

5 MCAR § 1.0669 Separation by teams.

A. Athletic programs for students in the seventh grade or above may include one or more teams limited to participants of one sex whose overall athletic opportunities have previously been limited. Athletic programs for students in the sixth grade or below may contain one or more teams which are limited to participants of one sex whose overall athletic opportunities have previously been limited and who by demonstrated interest indicate a desire to participate on a team restricted to members of that sex.

B. Any public or private elementary or secondary school may provide in the same sport two teams which are separated according to sex when overall athletic opportunities for one sex have previously been limited, but the team for the other sex may only be substantially separated by sex.

C. When overall athletic opportunities for one sex have previously been limited, members of that sex shall be permitted to try out and, if successful, to participate on any team in any sport. This rule does not prohibit any elementary or secondary school from making participation on a team in a sport dependent upon a demonstrated level of skill and ability.

D. When an educational institution has established a team exclusively for members of the sex whose overall athletic opportunities have previously been limited, members of the other sex may not try out for or participate on that team.

E. When an equal opportunity to participate is not provided to members of a sex whose overall athletic opportunities to participate have previously been limited, the school shall provide separate teams for the excluded sex in sports which will provide equal opportunity and accommodate their demonstrated interest.

5 MCAR § 1.0670 Duties of schools; penalty for failure to comply.

A. Public and private elementary and secondary schools shall provide equal opportunity for members of each sex to participate in both their intramural and interscholastic athletic program by responding to the following considerations:

1. A biennial determination of student demonstrated interest is to be conducted by use of a methodology the nature of which will be reported to the Department of Education in conjunction with the report required by 5 MCAR § 1.0671. The first biennial determination shall be made prior to the end of the 1981-82 school year.

Student demonstrated interest shall be considered in the selection of those athletic activities to be provided in the athletic program for the purpose of providing separate teams or sports for members of the previously excluded sex.

2. The number of opportunities for females to participate on teams is to be comparable to the number of opportunities for males to participate on teams in each school year in the interscholastic athletic program and comparable, as well as in the intramural athletic program.

3. The equipment, supplies and uniforms for each sport are to be comparable for both sexes.

4. The locker rooms, practice, and competitive facilities are to be comparable for both sexes.

5. The medical services are to be comparable for both sexes.

6. The participation rates for members of both sexes are to be comparable while recognizing the voluntary nature of student involvement in interscholastic and intramural athletics.

B. When two teams in the same sport are provided pursuant to 5 MCAR § 1.0669 A., the two teams shall be treated in a substantially equal manner. Public and private elementary and secondary schools shall accomplish this by providing that:

1. equipment, supplies, and uniforms for each team are comparable.

2. the games and competitive events for each team are scheduled so that the number of opportunities to perform before an audience are comparable.

3. the practice sessions and competitive events scheduled for each team are at equally desirable time periods.

4. the travel and per diem allowances per participant are comparable.

5. coaching for members of each team is comparable.

6. the locker rooms, practice, and competitive facilities for each team are comparable.

7. the medical services for each team are comparable.

8. the publicity produced by the school for each team is comparable.

9. the expenditure, excluding salary of the coach, per participant on each team is substantially equal. Per participant expenditure excludes gate receipts and other revenues generated by that sport. When an item or items of expense are not separated, the expense shall be prorated to the teams according to the number of participants.

C. The penalty for noncompliance with these rules by public elementary and secondary schools shall be the reduction of State Aids pursuant to procedures of Minn. Stat. § 124.15, subd. 3. In addition, nothing in these rules shall be interpreted as limiting the authority of the Human Rights Department over public and nonpublic schools and noncompliance may constitute a violation of Minn. Stat. ch. 363, Human Rights Act.

5 MCAR § 1.0671 Compliance reports and submission of data. Annually, on or before October 15, each school/school district shall submit to the Commissioner of Education an elementary and secondary athletic program report containing information about both intramural and interscholastic athletics provided. The report shall contain by building: (a) number of sports offered for each sex, (b) the season each sport is offered for each sex, (c) the number of weeks each sport is offered, (d) the number of

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PROPOSED RULES

teams in each sport, (e) the number of coaches assigned each sport, (f) the number of students by sex participating in each sport, (g) the dollar expenditure per sport and, (h) the total unduplicated count of student participation in the athletic program by sex.

5 MCAR § 1.0672 Duties of the Commissioner of Education. Upon receipt of an educational institution's athletic program report, the Commissioner of Education shall:

- A. Evaluate the data contained in the report.
- B. Forward reports requiring additional attention to the Commissioner of Human Rights, pursuant to Minn. Stat. § 124.15, subd. 2a.

Energy Agency Alternative Energy Development Division

Proposed Temporary Rule Governing Certification of Solar Collectors to Qualify Renewable Energy Source Expenditures for the Minnesota Individual Income Tax Residential Energy Credit

Temporary Rule as Proposed

6 MCAR § 2.1500 Solar collector certification. Any solar collector included in a renewable energy source expenditure after December 31, 1980, shall be deemed certified by the Minnesota Energy Agency for purposes of Minn. Stat. § 290.06, subd. 14 (1980), so long as the expenditure qualifies for the federal renewable energy source residential credit of Section 44C of the Internal Revenue Code of 1954 (26 U.S.C. § 44C), as amended through December 31, 1978, and any regulation promulgated pursuant thereto. [A Request for Public Comment on this proposed temporary rule appears in this issue, at page 1305.]

Department of Public Welfare Mental Health Bureau

Proposed Temporary Rule Governing Approval of Mental Health Centers and Clinics for Insurance Reimbursement

Request for Public Comment

Notice is hereby given that the Department of Public Welfare has proposed the following temporary rule for the purpose of implementing the provisions of Laws of Minnesota, 1980, Chapter 506, standards for approval of mental health agencies for insurance reimbursement; as authorized by Minn. Stat. § 15.0412, subd. 5 (1977), pending completion of a full hearing and adoption of a permanent rule.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the State Register by writing to Trudy Dunham, Insurance Reimbursement Specialist, Mental Health Bureau, Department of Public Welfare, 4th Floor, Centennial Office Building, Saint Paul, Minnesota 55155. The temporary rule 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 rule.

Arthur E. Noot
Commissioner of Public Welfare

Temporary Rule as Proposed (all new material)

DPW Temporary Rule 29

- A. Statutory Citation
- B. Purpose
- C. Applicability
- D. Definitions
- E. Minimum Standards
 1. Treatment
 2. Quality Assurance
 3. Staffing

F. Approval Procedures

1. Application
2. Review
3. Method of Approval/Disapproval
4. Appeals

G. Application Fee**H. Duration of Approval****DPW Temporary Rule 29 (12 MCAR § 2.029) Standards for approval of mental health centers and clinics for insurance reimbursement.**

A. Statutory citation. The authority for this rule is Chapter 506, Laws of Minnesota, 1980, codified as Minn. Stat. § 245.69, subd. 2.

B. Purpose. The purpose of this rule is to establish minimum standards for approval of public and private mental health centers and public and private mental health clinics in accordance with the authorizing statute and with Minn. Stat. § 62A.152, subd. 2, which requires certain group insurance policies and plans to provide benefits to covered persons for outpatient mental illness consultative, diagnostic, and treatment services.

C. Applicability.

1. This rule applies to those public and private mental health centers and public and private mental health clinics which seek the approval of the Commissioner of Public Welfare for purposes of group health insurance or subscriber contract reimbursement under the terms and provisions of this rule. This rule does not apply to the individual office practice of physicians or licensed consulting psychologists, or to licensed hospitals.

2. The provisions of this rule shall be severable. If any clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability shall not be affected.

3. Any provision of this rule inconsistent with any applicable state or federal law is superseded by that law.

4. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of a staff member of such facility to claim reimbursement from Medical Assistance or other third party payors when practicing privately. Approval of a mental health center or mental health clinic under this rule does not convey or imply approval of such facility to claim reimbursement from Medical Assistance.

5. Approval of a mental health center or mental health clinic under this rule constitutes approval only for purposes of Minn. Stat. § 62A.152, subd. 2. Approval shall not be construed as endorsement or accreditation by the Department of Public Welfare.

D. Definitions.

1. Application: The formal request by a mental health center or mental health clinic to the commissioner on the forms created for this purpose, to be recognized as meeting the requirements of Minn. Stat. § 245.69, subd. 2 and this rule, and therefore eligible to claim reimbursement for outpatient clinical services to persons with mental illness covered by group health insurance policies or subscriber contracts under the terms of Minn. Stat. § 62A.152.

2. Approval: The determination by the commissioner and written notice to the applicant that the applicant mental health center or mental health clinic has met the minimum standards of this rule and Minn. Stat. § 245.69, subd. 2.

3. Case review: A process of consultation which specifically addresses a client's condition and treatment, including issues of presenting problems, diagnosis and assessment, measurable treatment goals and objectives, treatment strategy, the appropriateness of the treatment and its duration, the outcomes of treatment, etc.

4. Clinical services: Services provided to a specific person or persons, to diagnose and prognosticate the recipient's status relative to a disabling condition or problem; and, where indicated, to treat the recipient to reduce impairment due to mental illness. This includes time spent in treatment planning, record keeping required for treatment, and quality assurance mechanisms.

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5. Commissioner: Commissioner of the Minnesota Department of Public Welfare or a designated representative.
6. Competent: Having qualifications and abilities to provide certain mental health services, based on experience, education, training and personal characteristics; having qualifications in assessment, diagnosis and treatment strategies, and the ability to work well with certain categories of clients.
7. Consultation: The process of imparting information or advice by one person or persons to another person or organization.
8. Continuing education: The process of planned augmentation of job related knowledge, understanding, and skills for the staff of a mental health center or clinic to assist staff in acquisition of the skills needed to update or enhance their competencies in the delivery of clinical services.
9. Deferral: The determination by the commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule, a listing of the specific deficiencies and providing up to six (6) months to make needed changes as a prerequisite for approval.
10. Disapproval: The determination by the commissioner and written notice to the applicant that the applicant mental health center or clinic does not meet the minimum standards of this rule.
11. Documentation: Automatically and/or manually produced and stored evidence that will attest to the compliance with requirements of this rule.
12. Fee: The non-refundable charge for processing each application for approval under this rule.
13. Discipline: A particular field of study and training, e.g., psychiatry, psychology, clinical social work, psychiatric nursing and allied mental health field.
14. Group Health Insurance: An insurance policy providing insurance reimbursement for health-related services for persons enrolled with the insurance carrier as part of a covered group.
15. Legally constituted person: An organization that is constituted by at least one of the following: 1) charter, 2) articles of incorporation, 3) partnership, or 4) legislative or executive action; and that has a governing body that sets policy and is fully responsible for the operation and performance of the organization.
16. Mental health center: An outpatient mental health facility which offers clinical services and indirect services such as consultation, prevention, and community education; and is a legally constituted person.
17. Mental health clinic: An outpatient mental health facility or clearly identifiable outpatient mental health unit within an organization, which offers primarily clinical services; and is a legally constituted person.
18. Mental health practitioner: A staff member not in E.3.d, E.3.e, or E.3.f, providing clinical services under the direct supervision of a mental health professional, with identifiable training and areas of competence, and either a) bachelor's degree in a mental health field from an accredited college or university and one year of supervised clinical experience; b) three years of supervised clinical experience; c) a graduate student formally assigned to the center or clinic by their accredited college or university; or d) a masters or other graduate degree in a mental health field from an accredited college or university.
19. Mental health professional: A staff member listed in E.3.d., E.3.e., or E.3.g. providing clinical services including all Minnesota licensed psychologists and psychiatrists.
20. Mental illness: A condition with physiological, psychological, and social components, which results in an inability to interpret the environment realistically and in an impaired functioning in primary aspects of daily living such as personal relations, living arrangements, work, and recreation. For purposes of reimbursement under the terms of this rule, mental illness shall mean a condition listed in the International Classification of Diseases (ICD-9-CM) whose classification category and code is included in the range 290.0-302.99 or 306.0-315.99, or the corresponding code in the American Psychiatric Association Diagnostic and Statistical Manual (DSM-III), Axes I, II or III.
21. Multidisciplinary staff: All mental health professionals and mental health practitioners providing outpatient clinical services for mentally ill persons and employed by the center or clinic.
22. Subscriber contract: A contract, agreement, or other arrangement between a nonprofit health service organization and the subscriber (or an employer for the benefit of the subscriber) under the terms and conditions of which health service or reimbursement therefor is provided.
23. Treatment strategy: Particular form(s) or modality(s) of service delivery, appropriate to problems of mental illness and client characteristics which delineate the process for achievement of client goals.

E. Minimum standards.

1. Treatment standards.

PROPOSED RULES

a. Each mental health center or clinic shall establish a diagnostic and assessment process that provides services appropriate to the individual needs of clients for whom services are reimbursable through group health or subscriber contract. The diagnosis shall be by or under the direct supervision of and signed by a psychiatrist and/or licensed consulting psychologist, or by and signed by a licensed psychologist in collaboration with a licensed consulting psychologist.

b. Each mental health center or clinic shall have a case record and individual treatment plan for each client for whom treatment services are reimbursable through group health insurance or subscriber contract. The case record shall include a) the DSM/III or ICD-9-CM diagnosis; b) indications of clinical services received by the client, including peer review and consultation notes; c) the treatment plan; and d) at the closing of the case, a statement of treatment outcome. Case records shall be maintained sufficient to determine good practice. The individual treatment plan, based upon a diagnostic assessment of mental illness, shall be jointly developed by the client and mental health professional. The plan shall include a) client or family history; b) statement of the presenting problem as seen by the client; c) measurable treatment goals; and d) treatment strategy. Clinical services shall be provided in accordance with the plan, and updated as needed with the client. A mental health professional shall be responsible for the treatment of each client.

c. Clinical services shall be appropriate to the presenting problem, age, sex, socioeconomic and ethnic background of the client, and provided in the least restrictive manner. Clinical services shall be provided in accordance with existing professional codes of ethics.

d. If the appropriate treatment and/or the client desired treatment is not available at the mental health center or clinic, the facility shall make appropriate referrals for the client.

e. Each mental health center or clinic shall ensure clinical services are available to clients on an emergency basis.

f. Each mental health center or clinic shall have access to hospital admission for psychiatric inpatient care, and provide as needed by a client. This is not to be interpreted as requiring direct hospital admission privileges on the part of qualified personnel.

2. Quality assurance standards. Each applicant mental health center or clinic shall have established mechanisms for quality assurance and shall provide at the Commissioner's request, documentation of the maintenance and ongoing nature of at least the following:

a. Each mental health center or clinic shall document that staff providing clinical services function in a multidisciplinary manner. There shall be an integral and ongoing involvement of psychiatry, psychology and clinical social work or psychiatric nursing in the provision of clinical services, including diagnosis and assessment, treatment and quality assurance mechanisms.

b. The multidisciplinary staff shall meet at least twice monthly for a minimum of four (4) hours per month for multidisciplinary case reviews, peer consultations, treatment plan development and in-depth case discussions. Each mental health center or clinic shall develop and implement procedures which set standards for case review and encourage the ongoing consultation among multidisciplinary staff. Written minutes of the twice monthly consultation meetings shall be retained at the center or clinic for a period of at least three years.

c. Each mental health clinic or center shall ensure that the client has been informed by the multidisciplinary staff of the staff's assessment of the problem; treatment alternatives; possible outcomes and side effects of treatment modalities; staff recommendations for treatment; approximate length, cost and hoped for outcome of treatment; the prospective client's rights and responsibilities if (s)he consents to the treatment plan; staff rights and responsibilities; the Government Data Practices Act; and procedures for reporting alleged violations of client rights. If the client is considering chemotherapy, hospitalization, or other medical treatment, the appropriate medical staff member shall inform the client of the treatment alternatives, action of the medication or medical procedure, and its possible side effects.

d. Each mental health center or clinic shall have a multidisciplinary peer review system which shall include review of a randomly selected sample of at least 5% or 6 cases, (whichever is more) of the annual active treatment caseloads of each mental health professional. The purposes of peer review shall minimally include assurance that recorded clinical information is sufficient for purposes of clinical care and evaluation; and that diagnosis and treatment provided are appropriate, necessary and sufficient, and of good quality. Each center or clinic shall develop standards and criteria for multidisciplinary peer review of

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cases by mental health professional staff. Minutes of all peer review meetings shall be retained at the center or clinic for at least three years.

e. Each mental health center or clinic shall have an established staff supervision procedure. A staff organization chart and documentation of the ongoing nature and existence of supervisory activity shall be required.

f. Each mental health center or clinic shall have an established internal utilization review system. The system shall permit periodic examination of an agency's operations to determine if resources are being used effectively and efficiently, and review of the cost and quality of clinical services delivered. Utilization data is to be compiled and documentation of the application of such information to agency operations shall occur annually.

g. Each mental health center or clinic shall solicit client input regarding satisfaction with the quality of clinical services.

h. Each mental health center or clinic shall ensure that assignment for treatment is made to an appropriate staff member, competent in the recommended treatment strategy and in treating the individual client characteristics.

i. Each mental health center or clinic shall have a continuing education policy. All multidisciplinary staff shall continue their education as required by rule or statute, or in the absence of any requirement shall attend or otherwise participate in thirty-six (36) clock hours every two years of academic or practical course work and training approved by the governing body of the clinic or center and which is relevant to the identified training needs of the staff. In the event any continuing education requirements are developed pursuant to Minn. Stat. § 214 for any human services occupations which are part of the staff, this portion of this rule is hereby deemed amended to adopt the standards later developed pursuant to Minn. Stat. § 214.

j. Each mental health clinic or center shall develop procedures for the investigation and/or reporting of abuse of clients in accordance with the Vulnerable Adults Act, Minnesota Laws, 1980, Chapter 542; Reporting of Maltreatment of Minors, Minn. Stat. § 626.556; and existing professional codes of ethics.

k. Client information compiled by a mental health center or clinic, including case records and minutes of staff case-specific consultation, shall be protected as private data on individuals within the welfare system as provided in Minn. Stat. §§ 15.1611-15.1698, the Government Data Practices Act.

3. Staffing standards.

a. Each applicant mental health center and clinic shall employ a multidisciplinary staff in psychology, psychiatry and related disciplines consistent with any personnel standards developed pursuant to Minn. Stat. § 214 for any human services occupation now credentialed or which may be credentialed by the state. Employment records shall be maintained sufficient to determine the clinical services qualifications and terms and conditions of employment for each multidisciplinary staff person.

b. Each mental health center and clinic shall designate a mental health professional responsible for ensuring compliance with the rule standards.

c. The multidisciplinary staff shall be composed of at least four (4) mental health professionals. At least two (2) of the mental health professionals shall be employed full-time (minimally 35 hours a week) by the mental health center or clinic and shall be of different disciplines.

d. The mental health professional staff shall include a psychiatrist, board certified or eligible for board certification and licensed under Minn. Stat. § 147; and a licensed consulting psychologist, licensed under Minn. Stat. § 148.88-148.99.

e. The mental health professional staff shall include a clinical social worker with a masters degree in social work from an accredited college or university or its equivalent with at least two (2) years of post-masters supervised experience in direct clinical services and/or a clinical psychiatric registered nurse with a masters degree from an accredited college or university or its equivalent who is licensed under the Section Minn. Stat. §§ 148.171-148.285 with at least two years of post-masters supervised experience in direct clinical services. A minimum of one (1) hour of supervisory contact per week is required to classify clinical experience as supervised.

f. The mental health professionals required in E.3.d. and E.3.e. shall each be employed by the clinic or center in the form of an individual who is on-site and providing clinical services at least eight (8) hours every two weeks. This standard shall be considered minimal for the smallest clinic or center permissible under E.3.c. Larger clinics and centers shall employ or contract with these required professionals in similar proportion to ensure and document their ongoing presence and availability in the provision of clinical services.

g. The mental health professional staff may also include clinical, counseling, or health care psychologists with a master's degree from an accredited college or university or its equivalent with at least two (2) years of post-master's supervised experience in direct clinical services or who is licensed under Minn. Stat. §§ 148.88-148.99; and/or a person with a masters degree from an accredited college or university or its equivalent in an allied mental health field, which degree is established by

the person's official transcript to minimally include 36 semester hours of graduate course work in clinical theory and supervised clinical work, with at least two (2) years of post-masters supervised experience in direct clinical services. A minimum of one (1) hour of supervisory contact per week (35 hours of clinical services) is required to classify clinical experience as supervised.

h. No discipline shall be represented in a full-time equivalent proportion of the mental health professional staff greater than 60%. This provision does not apply to mental health centers and clinics with less than six (6) full-time equivalent mental health professional staff, though compliance with all other staffing standards is required. In determination of full-time equivalence, only time spent in clinical services shall be considered.

i. Mental health practitioners may be employed by a mental health center or clinic to provide clinical services in their documented area of competence for purposes of reimbursement. A center or clinic employed mental health professional shall be responsible for supervision of the practitioner, including a minimum of one (1) hour of face-to-face, case-specific consultative supervisory contact each week. All practitioners shall minimally attend two case-specific consultation meetings a month, and continue their education as required by E.2.i. All client cases receiving clinical services from a practitioner shall be reviewed at least once each two (2) months by the clinical supervisor; in addition, such cases are subject to the same agency peer review mechanism as all other cases. Mental health practitioners shall not comprise more than twenty-five (25) percent of the full-time equivalent total of all the multidisciplinary staff. In determination of full-time equivalence, only time spent in clinical services shall be considered. In the event practitioner standards are developed pursuant to Minn. Stat. § 214 which are not consistent with this section, those provisions of the rule are superceded by Minn. Stat. § 214.

F. Approval procedures.

1. Application.

a. An organization seeking approval as a mental health center or mental health clinic for insurance reimbursement of its outpatient mental illness services shall make formal application to the commissioner for such approval. The application forms for this purpose shall be obtained from the Mental Illness Program Division of the Minnesota Department of Public Welfare. The application forms shall require only such information as is required by statute or rule.

b. Payment of a nonrefundable application fee, established by the commissioner, shall accompany each application. A fee shall be required for reapplication following disapproval of a previous application.

2. Review. When a completed application has been received, the commissioner shall begin the formal review, including the on-site survey. Documentation of standards, as agency policy and as procedures implemented in the provision of clinical services, shall be reviewed. If implementation of a procedure is too recent to be reliably documented, a written statement of the planned implementation shall be accepted as documentation on the initial application. The review shall minimally include the following:

a. Review of documentation provided by the applicant organization of its multidisciplinary staff, education and training credentials, and areas of competence of both mental health professional and mental health practitioner staff.

b. Review of written agency policy and procedures for provision of clinical services in a multidisciplinary manner, and documentation of how the procedures are actually in effect on an ongoing basis.

c. Review of documentation provided by the applicant organization of its quality assurance procedures, including:

(1) A written agency policy on continuing education for all multidisciplinary staff providing clinical services, and an assessment of staff professional education and training needs, with the agency responsible for showing the relevancy of the continuing education to the identified training needs of its staff.

(2) The written policy and procedures to protect clients and inform them of their rights and the treatment process, including reporting and/or investigation of alleged violations of client rights and documentation on how the policy and procedures are actually in effect on an ongoing basis.

(3) Organizational structure including written procedures for multidisciplinary staff interaction and supervision.

(4) Written multidisciplinary case-specific consultation standards, criteria, policy and procedures.

(5) Written multidisciplinary peer review system standards, criteria, policy and procedures.

(6) Written client satisfaction assessment procedures.

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PROPOSED RULES

(7) Internal utilization review written policy and procedures, including the annual application of information to agency operations.

d. Review of written applicant organization policy and procedures for intakes, case assignment and diagnosis and assessment; referral policy; emergency service procedure, case termination procedure; and documentation on how the procedures are actually in effect on an ongoing basis.

e. Review of case record and treatment plan format and procedure.

f. Interview with a random sample of multidisciplinary staff of the organization.

g. Review of a random sample of treatment plans and case records.

h. The Department of Public Welfare shall ensure that the use and disclosure of information on applicants, their employees, and their clients in the approval process be safeguarded and in compliance with the Government Data Practices Act, Minn. Stat. § 15.1611-15.1699.

i. Unannounced site visits of the mental health center or clinic may occur during approval and deferral periods to verify continuing compliance with the rule. Any such visit shall occur only during normal working hours of the center or clinic, and shall not disrupt the normal functioning of the facility.

3. Method of approval/disapproval.

a. Upon completion of the on-site review, the reviewer(s) shall submit to the commissioner the survey findings with a recommendation to approve, defer or disapprove the application, and the reasons for the recommendation.

b. The commissioner shall send the applicant organization a letter of approval, deferral or disapproval within 30 days of the completion of the on-site review. If the decision is deferral or disapproval, the commissioner's letter to the applicant organization shall state the specific deficiencies.

c. The commissioner shall disapprove an applicant organization or withdraw approval when a mental health center or clinic is not in compliance with the authorizing statute and with this rule.

d. If an applicant is deferred, the length of deferral shall not exceed six months. If deficiencies stated in the deferral letter are not satisfactorily corrected by the end of the deferral period, the application is disapproved. At any time during the deferral period, the applicant may submit documentation indicating correction of such deficiencies; the commissioner shall then approve or disapprove the applicant within 30 days. At any time during the deferral period, the applicant may request the commissioner to change the applicant status to disapproval; the commissioner shall comply within 14 days of receipt of this written request. The applicant shall not be considered an approved clinic or center, or eligible for insurance reimbursement as such during the deferral period.

e. An approved center or clinic may submit claims for insurance reimbursement for services provided on or after the date the completed application is received by DPW, except for applicants deferred or disapproved during the review process. A deferred applicant may submit claims for insurance reimbursement for services provided on or after the date the commissioner signs a letter notifying applicant of approval. No center or clinic shall submit claims for insurance reimbursement as an approved clinic or center until receipt of written notice of approval by the commissioner, except as provided in F.3.f. and F.3.g.

f. The currently approved mental health center and clinic under Department of Public Welfare Rule 28 shall continue as an approved center or clinic for 180 days after the date this rule is effective provided that the center or clinic submits a completed application within 45 days after the date this rule is effective. Centers and clinics not submitting a completed application within 45 days shall lose their approval status effective 60 days after the effective date of this rule.

g. Each completed application received from a Rule 28 approved mental health center or clinic within the 45 days shall be reviewed. If the written application appears to meet all minimal standards, a letter of provisional approval by the commissioner shall be issued. The provisional approval shall enable the center or clinic to submit claims for insurance reimbursement as an approved center or clinic for a time period not to exceed 30 days after the on-site review. If the application does not appear to meet minimal standards, the applicant shall be notified of the deficiencies. The applicant shall lose approval status effective 180 days after the date this rule is effective if the deficiencies have not been corrected.

h. The Department of Public Welfare shall maintain an administrative file on each applicant for five (5) years, including:

- (1) application and attached documentation;
- (2) on-site survey report, or statement why it was not conducted;
- (3) reviewer's report and recommendation to the commissioner;
- (4) letters of approval, deferral and/or disapproval sent to applicant;

- (5) appeal documents;
- (6) reports of agency changes in policy, staff and/or services;
- (7) other related correspondence.

i. The commissioner may accept as documentation for a specific standard, evidence of licensure or accreditation through another regulating body when the required minimum standards are the same as or higher than that of a specific provision of the rule.

4. Appeals. If a mental health center or clinic is disapproved, a contested case hearing and judicial review may be requested by an applicant organization as provided in Minn. Stat. §§ 15.0418-15.0425. A mental health center or clinic which is disapproved, or whose approval is withdrawn due to noncompliance, may reapply with a new formal application not sooner than ninety (90) days after notification of disapproval.

G. Application fee. An application fee, not to exceed \$1,000, shall be established by the commissioner. The fee shall be based on the estimated cost of the application procedure and number of applicants; it shall be revised periodically as the commissioner deems necessary to ensure related expenditures are not in excess of fees collected.

H. Duration of approval.

1. Initial approval by the commissioner shall be valid for twelve (12) months from the effective date. Subsequent approvals may be valid for up to twenty-four (24) months. If an approved mental health center or clinic has met the conditions of this rule, including reapplication when required, its status as an approved mental health center or clinic shall continue in effect pending department processing of the reapplication.

2. The approval shall be issued only for the location(s) and mental health center or clinic named in the application, and shall not be transferable or assignable to another location or center or clinic.

3. Changes in mental health center or clinic staffing, treatment or quality assurance procedures that may effect the ability of the center or clinic to comply with the minimum standards of this rule shall be reported in writing to the commissioner within two weeks of occurrence. Review of the change shall be conducted within two weeks of notification. Organizations with changes resulting in deficiencies in minimum standards for approval shall be notified, and may have up to six months to correct deficiencies before losing approval status. Interim procedures to resolve the deficiency on a temporary basis shall be developed and submitted in writing to the commissioner for his approval. Nonreporting of change that results in deficiency, failure to develop an approved interim procedure, or nonresolution of the deficiency within six months, shall result in loss of approved status.

Energy Agency Alternative Energy Development Division

Proposed Temporary Rule Governing Certification of Solar Collectors to Qualify Renewable Energy Source Expenditures for the Minnesota Individual Income Tax Residential Energy Credit

Request for Public Comment

The Minnesota Energy Agency proposes to adopt a temporary rule for the certification of solar collectors for income tax credit, pursuant to Minn. Stat. § 290.06, subd. 14 (1980). The proposed temporary rule provides that, until the agency promulgates permanent rules for the certification of solar collectors, solar collector expenditures which qualify for the federal renewable energy source residential tax credit shall be deemed certified by the agency for purposes of the Minnesota tax credit. Written comment, data and views will be accepted through March 16, 1981, and should be directed to John R. Dunlop, Manager, State Solar Office, Minnesota Energy Agency, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul MN 55101. The proposed temporary rule may be modified if the modifications are supported by the data and views submitted to the agency. [The text of the above-referenced proposed temporary rule appears in this issue at S.R. 1298.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

SUPREME COURT

Decisions Filed Friday, February 13, 1981

Compiled by John McCarthy, Clerk

51351/Sp. William Bliss, Relator, v. Minneapolis Star & Tribune Company. Workers' Compensation Court of Appeals.

Reversed and remanded. Scott, J. Dissenting, Otis, J.

51160/Sp. State of Minnesota, by its Minnesota State Ethical Practices Board, v. The Red Lake DFL Committee, Appellant. Beltrami County.

A political committee composed of members of the Red Lake Band of Chippewa Indians living on the Red Lake Reservation is subject to the provisions of Minn. Stat. ch. 10A (1980) when it sponsors and pays for political advertisements disseminated outside the reservation to influence voters of the state to vote for particular candidates for the governorship, offices in the Minnesota Legislature, and offices in the United States Congress.

Affirmed. Simonett, J.

OFFICIAL NOTICES

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

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

Department of Commerce Insurance Division

Petition by the Workers' Compensation Insurers Rating Association of Minnesota for Changes in the Basic Manual for Workers' Compensation and Employers' Liability. Docket No. INS-81-009-JL

Notice of Hearing

On October 22, 1980, the Workers' Compensation Insurers Rating Association of Minnesota filed a Petition to amend the Basic Manual for Workers' Compensation and Employers' Liability Insurance. The Basic Manual contains rules governing the issuing, underwriting, classification, and auditing of workers' compensation insurance risks and policies within the state of Minnesota. The hearing in matter will be conducted before Hearing Examiner; Jon Lunde, Office of Administrative Hearing, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-6910.

Pursuant to the prehearing order from Hearing Examiner Jon Lunde dated February 6, 1981, the Insurance Division issues the following notice.

Notice is hereby given that anyone not currently a party to this matter who may wish to participate as a party should contact the Hearing Examiner no later than February 27, 1981. Any person may appear at the hearing to present testimony or exhibits, to the extent permitted by the hearing examiner, at the beginning of each scheduled hearing date pursuant to 9 MCAR § 2.210 E. Any person so appearing may question witnesses, and any person offering testimony or exhibits may be questioned by the parties to this proceeding, to the extent permitted by the hearing examiner.

Further, notice is given that the public hearing in this matter will commence on May 26, 1981, at the Office of Administrative Hearings, address noted above, at 9:00 a.m. The hearing date may be continued, and any such request for a continuance may be made by contacting the Hearing Examiner Jon Lunde.

February 12, 1981

William R. Howard
Assistant Commissioner of Insurance

Energy Agency Alternative Energy Division

Notice of Intent to Solicit Outside Opinions Regarding Rules Governing Certification of Solar Collectors to Qualify Renewable Energy Source Expenditures for the Minnesota Individual Income Tax Residential Energy Credit

Notice is hereby given that the Minnesota Energy Agency is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the certification of solar collectors to qualify expenditures for the solar collectors for income tax credits. The promulgation of these rules is authorized by Minn. Stat. § 290.06, subd. 14 (1980), which requires the agency to promulgate rules establishing the criteria for certification of solar collectors as required by clause (a) of that statutory subdivision.

The agency requests information and comments generally concerning the subject matter of the rules and, specifically on a set of draft rules which is available from the agency at the address/telephone listed below. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements and requests for the draft rules should be addressed to John R. Dunlop, Manager, State Solar Office, Minnesota Energy Agency, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101. Oral statements will be received during regular business hours over the telephone at 612/296-4737 and in person at the above address. Requests for draft rules will be received over the telephone by the Energy Agency Information Center at 296-5175 (metro area) or 1-800-652-9747 (outstate).

All statements of information and comment shall be accepted until March 27, 1981. Any written material received by the agency shall become part of the record when the rules are promulgated.

Higher Education Coordinating Board

Notice of Intent to Solicit Outside Information Regarding Proposed Amendment of Rules Governing Scholarship and Grants-in-aid; Work-study Grants; Minnesota State Student Loan Program; Minnesota Foreign Student Assistance; Veterans' Dependents Student Assistance; Part-time Student Grants; Private Institutions Registration; and the Area Vocational-technical Institute Tuition Subsidy Program

Notice is hereby given that the Minnesota Higher Education Coordinating Board is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing the Scholarships and Grants-in-aid Program (presently 5 MCAR §§ 2.0101-2.0108), the Work-Study Grants Program (presently 5 MCAR §§ 2.0301-2.0310), The Minnesota State Student Loan Program (presently 5 MCAR §§ 2.0501-2.0507), the Minnesota Foreign Student Assistance Program (presently 5 MCAR §§ 2.0601-2.0607), the Minnesota Veterans' Dependents Student Assistance Program (presently 5 MCAR §§ 2.0702-2.0800), the Part-Time Student Grant Program (presently 5 MCAR §§ 2.0801-2.0806), the Private Institutions Registration Program (presently 5 MCAR §§ 2.0901-2.1000), and the Area Vocational-Technical Institute Tuition Subsidy Program (presently 5 MCAR §§ 2.1001-2.1008).

The promulgation of these rules is authorized by Minnesota Statutes §§ 136A.111, 136A.16, 136A.234, 136A.236, 136A.70 (1980).

The Minnesota Higher Education Coordinating Board requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Mary Samoszuk
Minnesota Higher Education Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 297-2036 and in person at the above address.

Any written material received by the Minnesota Higher Education Coordinating Board shall become part of the record in the event that the rules are promulgated.

OFFICIAL NOTICES

Minnesota State Retirement System

Regular Meeting, Board of Directors

Regular quarterly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, February 27, 1981 at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, 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) 296-7876. Application deadline is March 10, 1981.

REHABILITATION REVIEW PANEL has one vacancy open immediately for a physician in medicine. The panel reviews rehabilitation plans and rules; advises Commissioner of Labor and Industry. Members are appointed by the Governor. For specific information, contact Rehabilitation Review Panel, 30 State Capitol, St. Paul 55155; (612) 296-3391.

COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE has one vacancy open immediately for a public member. The council advises the Governor and Legislature on issues affecting the Spanish-speaking community. Members are appointed by the Governor and confirmed by the Senate, and receive \$35 per diem. For specific information, contact Council on Affairs of Spanish-Speaking People, 504 Rice St., St. Paul 55101; (612) 296-9587.

COMMUNITY SCHOOL ADVISORY COUNCIL has one vacancy open immediately for a public member in the 7th district. The council promotes the advancement of educational, recreational and social opportunity through maximum utilization of public school facilities. Members are appointed by the governor and receive \$35 per diem plus expenses. For specific information, contact Community School Advisory Council, 680 Capitol Square Bldg., St. Paul 55101; (612) 296-2587.

CONSUMER ADVISORY COUNCIL ON VOCATIONAL REHABILITATION has one vacancy open immediately for a public handicapped member. The agency is accepting further applications for its previously announced vacancies, terms ending January 1, 1985. Business and/or consumer representation is required. Advises the assistant Commissioner of Vocational Rehabilitation on policy matters relating to vocational rehabilitation services. Members are appointed by the Commissioner of Economic Security. Meetings are bi-monthly in St. Paul; members receive \$35 per diem. For specific information contact, Consumer Advisory Council on Vocational Rehabilitation, 3rd Floor, Space Center Bldg., St. Paul 55101; (612) 296-1822.

Board of Teaching

Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules Governing the Licensure of Elementary School Classroom Teachers, Licensure of Teachers in Middle Schools, Procedures for the Issuance of Life Licenses, Procedures for the Revocation or Suspension of Minnesota Teaching Licenses, Letters of Approval for Teachers to Teach Subjects or Fields for Which Current Valid Minnesota Licensure Is Not Held, Procedures for the Voluntary Surrender of Minnesota Teaching Licenses

Notice is hereby given that the Minnesota Board of Teaching is considering adopting and/or amending rules governing the licensure of Elementary School Classroom Teachers, Licensure of Teachers in Middle Schools, Procedures for the Issuance of Life Licenses, Procedures for the Revocation or Suspension of Minnesota Teaching Licenses. Letters of Approval for Teachers to Teach Subjects or Fields for Which Current Valid Minnesota Licensure is not Held, Procedures for the Voluntary Surrender of Minnesota Teaching Licenses.

The proposed rules are authorized by Minn. Stat. §§ 125.05, subd. 1, and 125.185, subd. 4 (1980), which authorizes the board to establish reasonable standards for the licensure of teachers. The proposed rules would establish reasonable standards and procedures related to the issuance of the licenses to teach in the State of Minnesota.

All interested or affected persons or groups may submit information related to the above cited proposed rules. Written or oral information and comment should be addressed to:

Kenneth L. Peatross, Executive Secretary
Minnesota Board of Teaching
608 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-2415

Any written material received by the board related to the above cited proposed rules shall become part of the hearing record in the event that the proposed rules governing these subjects are promulgated.

February 5, 1981

Kenneth L. Peatross, Executive Secretary
Minnesota Board of Teaching

Department of Transportation

Petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Company for Authority to Abandon and Remove Tracks Owned by Petitioner between Washington Avenue and Second Street, Approximately Four to Five Blocks East of the Milwaukee Road Passenger Depot in Minneapolis, Minnesota

Amended Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that, upon the request of the hearing examiner, the Commissioner of Transportation has rescheduled a contested case hearing concerning the above-entitled matter. The hearing previously scheduled to be held on March 10, 1981 will now be held on March 5, 1981 at 9:30 A.M. in Meeting Room E, Level A, Hennepin County Government Center (North East Street Level) 300 South 6th Street, Minneapolis, Minnesota.

The hearing will be held before Mr. Richard DeLong, 1745 University Avenue, Saint Paul, Minnesota 55104 (Telephone: 612-296-8117) a hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minnesota Statutes §§ 15.0411 through 15.052 and 9 MCAR §§ 2.201 through 2.222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Mr. Gordon W. Boldt, Director, Office of Railroad Administration, 419 Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2452).

The purpose of the hearing is to ensure that under the provisions of Minnesota Statutes §§ 219.681 and 219.741, all parties and potential parties of interest are given an opportunity to be heard on the petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Company for authority to abandon and remove tracks owned by Petitioner between Washington Avenue and Second Street, approximately four to five blocks east of the Milwaukee Road passenger depot in Minneapolis, Minnesota.

The petition recites among other matters:

“That the property upon which said trackage is located has been sold by Petitioner to the County of Hennepin which proposes to use said property for parking facilities.”

“That there is no longer any need by the shipping or receiving public for the continued maintenance of this track, and its continued maintenance and operation is economically not justified and therefore Petitioner requests authority to remove said trackage. . . .”

Any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the hearing examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought.

All parties are advised that if a party intends to appear at the hearing scheduled for March 5, 1981, the Notice of Appearance form enclosed with this order must be completed and returned to the hearing examiner at least 10 days before the hearing date. **SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.**

The above cited procedural rules are available at the Office of Administrative Hearings or may be purchased from the Documents Section of the Department of Administration, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155 (Telephone: 612-297-3000). They provide generally for the procedural rights of the parties including: rights to advance notice of

OFFICIAL NOTICES

witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents. If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

February 13, 1981

Richard P. Braun
Commissioner

Department of Transportation

In the matter of the petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Company for authority to abandon and remove tracks owned by Petitioner between Washington Avenue and Second Street, approximately four to five blocks east of the Milwaukee Road passenger depot in Minneapolis, Minnesota.

Amended Notice of Appearance

Date of Hearing: March 5, 1981

Name and Telephone Number of Hearing Examiner: Richard DeLong
1745 University Avenue
Saint Paul, Minn. 55104
296-8117

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

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OFFICE OF THE STATE REGISTER
State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Minnesota Reports—Old editions available at \$8.25 each plus tax. These are Supreme Court decisions. Recent volumes are available at the Supreme Court, Office of Court Administrator, 317E Capitol, St. Paul, MN 55155. Volumes available are 312 and previous numbers.

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