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STATE OF MINNESOTA



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Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
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38	Monday Mar 9	Monday Mar 16	Monday Mar 23
39	Monday Mar 16	Monday Mar 23	Monday Mar 30
40	Monday Mar 23	Monday Mar 30	Monday Apr 6
41	Monday Mar 30	Monday Apr 6	Monday Apr 13

*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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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/Section and Cumulative/Inclusive range. Includes rows for Issues 1-13, 14-25, 26, 27-38, 39, 40-51, and 52.

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

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EXECUTIVE ORDERS**Executive Order No. 81-1****Providing for the Delegation of Authority and Assignment of Duties to the Department of Economic Development**

I, ALBERT H. QUIE, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, it is the policy of the state to promote conditions under which communities and their locally elected government officials can fully develop, and conserve, their physical, economic and human resources; and

WHEREAS, it is the policy of the state to provide for a system of responsible and efficient local governance; and

WHEREAS, it is in the best interest of the state and its local citizens for there to be an agency of state government which can serve to facilitate more effective cooperation between the business community and local governments in all matters of economic development, community development, and state-local intergovernmental relations; and

WHEREAS, a merger of the program and activities of the Office of Local and Urban Affairs and the programs and activities of the Department of Economic Development would serve to achieve more effective and efficient cooperation between the state and its communities and local governments; and

WHEREAS, the reorganized Department of Economic Development will coordinate state-local relations, monitor and analyze the impact of state programs and policies on communities and local governments, and assist communities to identify and achieve the community and economic development objectives; and

WHEREAS, various federal statutes and rules provide to the Governor the opportunity to assign certain functions to a state department or agency; and

WHEREAS, the proper administration of the federal Land and Water Conservation Fund Act of 1965 (P.L. 88-578) requires the assignment of specific duties to various state agencies.

NOW, THEREFORE, I Order:

1. That pursuant to U.S. Office of Management and Budget Circular A-95 and U.S.

EXECUTIVE ORDERS

Department of Treasury Circular 1082, the Department of Economic Development is designated as the agency responsible for administering the *State Clearinghouse* and the *State Information Reception Agency*. The Department of Economic Development shall enter into an agreement with the State Planning Agency for review and comment of federal grant applications by state agencies and state plans.

2. That pursuant to P.L. 93-423, as amended, the Public Works and Economic Development Act of 1965, Section 302(a), the Department of Economic Development is designated as the agency to conduct a program of state economic development planning.

3. That pursuant to Section 701 of the Housing Act of 1954, as amended, the Department of Economic Development is designated as the agency to receive funds and to use these funds to conduct eligible planning activities and to make grants from these funds to units of local government, regional development commissions and the Metropolitan Council.

4. That pursuant to Title I, Section 107(a) of the Housing and Community Development Act of 1977, the Department of Economic Development is designated as the agency to conduct a program of technical assistance to units of local government.

5. That pursuant to P.L. 92-419, Section 306(a)(11), the Department of Economic Development in cooperation with the Governor's Rural Development Council is designated as the agency to conduct a program of rural development planning.

6. That the power in Minn. Laws of 1965, ch. 810, § 21, subd. 4, for the administration of the portion of the funds available from the federal Land and Water Conservation Fund Act of 1965 (P.L. 88-578) made available to local units of government are hereby assigned to the Department of Economic Development and that department shall have the following responsibilities thereunder:

a. Approval of all project proposals, project agreements, billings, final progress reports and correspondence pertinent to local units of government; provided, the Department of Natural Resources is furnished a copy of all approved project agreements.

b. The maintenance of project records including fiscal records for local units of government projects.

c. Final and compliance inspections and audits of local units of government on all projects.

d. Establishment of rules, regulations and procedures pertinent to administering the fund to local units of government subject to the approval of the State Liaison Officer.

7. That duties of the Office of Local and Urban Affairs and the State Planning Agency set forth in Minn. Stat. § 4.11, subd. 7; § 4.12, subds. 2(6), (8), as they relate to local levels of government; subds. 3, 4, 5; § 4.16, subds. 4, 5 (1980), are hereby transferred to the Department of Economic Development.

8. That the Commissioner of the Department of Economic Development is delegated such authority under Minn. Stat. § 4.13 (1980) as necessary to carry out duties and responsibilities hereby delegated to the Department of Economic Development.

9. To the extent inconsistent herewith, prior Executive Orders pertaining to the duties and responsibilities of the Office of Local and Urban Affairs, State Planning Agency, and Department of Economic Development are hereby rescinded.

Pursuant to Minn. Stat. § 4.035 (1980), this order shall become effective fifteen (15) days after its publication in the *State Register* and filing with the Secretary of State and shall remain

in effect until it is rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035 (1980).

IN TESTIMONY WHEREOF, I have hereunto set my hand this 19th day of February, 1981.

Albert H. Jure

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.

Department of Economic Security**Proposed Amendments to Rule Governing the Minnesota Youth Employment Act****Notice of Intent to Amend Rules without A Public Hearing**

The Minnesota Department of Economic Security hereby gives notice that it intends to adopt certain changes in the rule governing procedures under the Minnesota Youth Employment Act, Minnesota Statutes §§ 268.34-268.36. The department has determined that these changes will be non-controversial and has chosen to proceed without a public hearing pursuant to the provisions of Minnesota Statutes § 15.0412, subdivision 4(h). However, should seven or more persons submit a written request for a public hearing in the manner set forth below, the department will hold a public hearing on its proposed changes. Written requests for a public hearing must be submitted to Lawrence W. Cheetham, State Youth Services Supervisor, Minnesota Department of Economic Security, Room 528, 390 North Robert Street, Saint Paul, Minnesota 55101, within thirty (30) days of the date of publication in the *State Register*.

The proposed changes to the rule clarify the criteria for participation in the Section E(1) Regular Program and Section E(2) Postsecondary Program. The clarified criteria of economically disadvantaged is more precise and definitive than the current poverty guideline and further conforms with the Federal Comprehensive Employment and Training Act. This will result in a more efficient administration of the Act by program operators.

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 second proposed change in the rule is a change in the language to determine certification for the postsecondary part of the program (Section E (2)). The current rule specifies certification for the postsecondary portion of the program as individuals who are at least 18 years of age and who are certified by the department as intending to enroll or are enrolled in a postsecondary institution. The proposed change adds to that definition "or a high school graduate." This change would allow high school graduates under 18 years of age who are intending to enroll in a postsecondary educational institution to participate in the postsecondary part of the program.

The third proposed change is an addition to part G. (reallocation procedures). The addition would be known as G.3. This addition would allow the department to shift funds from one CETA prime sponsor to another during the course of the program with the mutual consent of both CETA prime sponsors. The proposed addition would allow a more efficient use of the funds appropriated under the Act and would result in an increased number of youth obtaining employment.

Amendments as Proposed

8 MCAR § 4.0010 Summer Youth Employment.

A. Purpose. This rule adopted pursuant to Laws of 1977, ch. 254, § 3, is designed to establish a procedure for the allocation of funds under the Youth Employment Act of 1977, Laws of 1977, ch. 254, and to establish contracting, operating, and invoicing procedures to be utilized in the expenditure of said funds.

B. Definition of terms. The following terms used in this rule shall have the meaning given them:

1. "Act" means the Youth Employment Act of 1977, Laws of 1977, ch. 254.
2. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security.
3. "Contract" means an agreement entered into between a prime sponsor or a political subdivision or a nonprofit organization and the commissioner for the operation of a youth employment program under the Act.
4. "Department" means the Minnesota Department of Economic Security.
5. "Prime sponsor" means a unit of government, combination of units of government, a rural concentrated employment grantee, or an Indian reservation, which has entered into a grant with the United States Department of Labor to provide comprehensive manpower services under the Federal Comprehensive Employment and Training Act of 1973. (P.L. 93-203)
6. "Program employer" means an organization which employs a person or persons under the program established by the Act.
7. "Subcontract" means an agreement entered into between a prime sponsor and a political subdivision and/or nonprofit organization for the operation of a youth employment program under the Act.

C. Allocation of funds. The commissioner shall allocate funds available under the Act as follows:

1. Allocations to counties.

a. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties on the basis of each county's share of the estimated youth population of the state which is 14 through 21 years of age.

b. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties according to each county's share of the estimated youth population of the state which is 14 through 21 years of age, adjusted for:

(1) Historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July and August for the most recent three-year period for which such data is available.

(2) The county's proportion of families below the poverty level as evidenced by 1970 U. S. Census figures as adjusted by reference to more recent population surveys, provided that such reference to more recent population surveys shall be made only if such data is available for all counties in the state.

(3) Estimates of postsecondary school enrollment in the county as evidenced by validated statistics from the Minnesota Higher Education Coordinating Board or, in their absence, by the most recent U. S. Census data.

c. The method of allocation to counties expressed mathematically shall be as follows:

$$A_{ci} = \frac{0.5(YP_{ci})}{YPs} + \frac{0.5F(YPA_{ci}) (U_{ci}) (P_{ci})}{\sum_{i=1}^n (YPA_{ci}) (U_{ci}) (P_{ci})}$$

- where: 1. A_{ci} = allocation to the i^{th} county
2. F = funds available under the Act

3. YP_{ci} = youth population 14 through 21 years of age in the i^{th} county, determined by interpolation for the current year from projections of the state demographer
4. PY_s = same as 3, above for the state
5. YPA_{ci} = youth population as in 3, above, but adjusted for postsecondary school enrollment as referenced in 8 MCAR § C.1.b.(3)
6. U_{ci} = most recent three year average of official labor force unemployment rates for the months of June, July, and August for the i^{th} county
7. P_{ci} = percent of all families with income below the poverty level in the i^{th} county as evidenced by the 1970 Census or more recent population surveys as referenced in 8 MCAR § C.1.b.(2)

2. Allocation to cities and Indian reservations. After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

a. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total population of the county as evidenced by the most recent U. S. Bureau of Census estimates. Each Indian reservation within the county shall receive that portion of the county's allocation which is proportionate to the population of the Indian reservation as compared to the total population of the county as evidenced by 1970 U. S. Census figures.

b. The remainder of the county allocation, that part which is not allocated to cities and Indian reservations under 8 MCAR § 4.0010 C.2.a., shall be allocated to the county as a whole.

D. Contracting procedures. Each prime sponsor will be offered a contract for the amount of funds allocated to its area. Upon the offer of a contract, each prime sponsor may exercise the following options:

1. Sign the contract for the entire amount of the allocation and directly administer the program.
2. Sign the contract for the entire amount of the allocation and subcontract the operation of the program to political subdivisions and/or nonprofit organizations within the prime sponsor's jurisdiction.
3. Designate all or a part of the allocation to be directly used by a state agency, political subdivision or a nonprofit organization.
4. Decline the offer of the contract. In such a case, the commissioner shall offer to contract directly with the cities, Indian reservations and counties in the prime sponsor's area.

E. Operations procedures.

1. Regular program. Youth who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the Act are eligible for program employment. Approximately fifty percent of the youth hired should be from families ~~whose annual incomes which meet do not exceed the poverty guidelines~~ criteria for economically disadvantaged as established by the Employment and Training Administration of the U.S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families ~~below the poverty level~~ available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the department and the department concurs, such ~~poverty level~~ criteria shall be waived with respect to the funds allocated to such area. Hereinafter, this portion of the program is referred to as the "regular program."

2. Postsecondary program. Notwithstanding 8 MCAR § 4.0010 E.1., at least 33-1/3 percent of the funds allocated to the prime sponsor area are to be used to hire youth who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately fifty percent of the youth hired should be from families ~~whose annual incomes which meet do not exceed the poverty guidelines~~ criteria for economically disadvantaged as established by the Employment and Training Administration of the U. S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families ~~below the poverty level~~ available for employment to meet this goal within

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PROPOSED RULES

an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the department and the department concurs, such ~~poverty level~~ criteria shall be waived with respect to the funds allocated to such area. Hereinafter, this portion of the program is referred to as the "postsecondary program." A partial waiver from this part may be obtained in accordance with the procedures set forth in 8 MCAR § 4.0010 G.

3. To obtain eligible youth, program employers must place a job order with the department and may employ only those youth referred by the department.

4. Eligible youth (not designated as supervisors) shall be paid the federal minimum wage for a period not to exceed 40 hours per calendar week and for not more than 12 weeks.

5. Program employers, at their discretion, may designate one eligible youth as supervisor for every ten youth in its employ under the Act. Program employers who employ at least five but less than ten youth may designate one youth as a supervisor. Youth designated as supervisors shall be paid the Federal minimum wage plus twenty-five cents (25¢) per hour for up to 40 hours per week for a period not exceeding 12 weeks.

6. Upon signing a contract or subcontract program employers may begin employing eligible youth referred by the department; however, no youth may be employed while attending school as a full-time student. No youth may be employed beyond September 30th of each calendar year.

F. Invoicing. The department shall reimburse contractors for wages paid to eligible youth, employer's contributions to FICA paid in behalf of such youth and Workers' Compensation insurance costs for such youth. Invoices and specific procedures for reimbursement will be furnished to program employers by the department.

G. Reallocation procedures.

1. Funds may be reallocated within a county or between a county and a city or between counties under the following circumstances:

a. The city or county originally allocated the funds according to the formula in 8 MCAR § 4.0010 C. refuses the funds.

b. The city or county originally allocated the funds gives its permission for those funds to be used in another city or county.

c. The prime sponsors may reallocate up to the equivalent of one full-time slot or position not to exceed \$1,000 between any subdivision above for the purpose of simplified administration of the program.

2. Prime sponsors may shift funds from the postsecondary portion of their program to the regular portion of their program provided that they certify in writing to the Department that they are unable to obtain sufficient youth who meet the criteria set forth in 8 MCAR § 4.0010 F.e.2., and the department concurs.

3. During the period of the contract, the department may shift funds from one prime sponsor to another prime sponsor with the mutual consent of both prime sponsors if the prime sponsor releasing the funds certifies that such funds are surplus and unlikely to be used within his area by the end of the contract period and the prime sponsor receiving the funds certifies such funds are likely to be used before the end of the contract period.

Department of Corrections

Proposed Rules Governing Juvenile Residential Facilities

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the State Capitol, Room 123, St. Paul, Minnesota, 55155, on April 21, 1981 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules, captioned above, by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to Peter Erickson, Examiner at Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, telephone (612) 296-8118. It is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons,

organizations or associations having common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered with and become a part of the record. The conduct of the hearing will be governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113. All statements and questions about procedures may be directed to the hearing examiner.

Written material may be submitted and recorded in the hearing record for five (5) working days after the public hearing ends, or for a longer period not to exceed twenty (20) calendar days if ordered by the Hearing Examiner.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notifications by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that twenty-five (25) days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, effective September 1, 1979, provides that the Commissioner of Corrections shall promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all juvenile residential facilities. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of juvenile residential facilities.

Under Minn. Stat. § 10A.01, subd. 11, as amended by Laws of Minnesota 1978, ch. 463, § 11, a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute:

"Lobbyist" means any individual:

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

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

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over \$250, excluding his own travel expenses in any year in communicating with public officials.

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

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, 435 Park Street, St. Paul, Minnesota, 55155, telephone 612/296-5615.

March 2, 1981

Jack G. Young
Commissioner of Corrections

Rules as Proposed (all new material)

11 MCAR § 2.551 Introduction.

A. Section 1, Minn. Stat. § 241.021, subd. 1, as amended by Laws of 1978, ch. 778 provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of a person detained or confined therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. The rules which follow are minimum requirements for juvenile residential facilities.

B. Annual inspections. Juvenile residential facilities required to be licensed by Minn. Stat. § 241.021 will be inspected annually.

C. Revocation of license for non-conformance. Revocation of license proceedings shall be done in accordance with Minn. Stat. § 241.021, 1, (4).

D. Conditional license. The commissioner shall issue a conditional license for a period of one (1) year. The conditional license shall describe those conditions needed to achieve substantial compliance.

E. Intended use. A facility shall be used only for the classification for which it is licensed.

F. Posted license. The license(s) of each juvenile residential facility shall be conspicuously posted in an area where residents are admitted to the facility.

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

11 MCAR § 2.554 Variance.

A. Variance of specific rule. The granting of a variance under this section shall not constitute a precedent for any other juvenile residential facility. The commissioner shall grant a variance if, in the licensing procedure or enforcement of the standards, the commissioner finds that:

1. To require a particular juvenile residential facility to comply strictly with one or more of the provisions will result in undue hardship;

2. The juvenile residential facility is otherwise in compliance with said standards and their general purpose and intent.

B. Emergency suspensions of rules. Nothing contained herein shall be construed to deny the power of any facility administrator to temporarily suspend any rule in the event of an emergency.

1. Only rules directly affected by the emergency shall be suspended.

2. The facility administrator shall notify the Department of Corrections in writing within seventy-two (72) hours of a suspension of any rule.

3. No suspension shall exceed seven (7) days without the approval of the Commissioner of Corrections.

11 MCAR § 2.559 Juvenile residential facility definitions.

A. "Administrative segregation" shall mean the status of physical separation of those juveniles who are determined to be prone to escape, prone to be assaultive or need protection from other juveniles.

B. "Approved capacity" shall mean the number of residents or occupants for which any room, unit, building, facility or combination thereof, was planned, designed and approved in compliance with these standards.

C. "Average daily population" shall mean the average number of residents (juveniles) residing daily during the last calendar year.

D. "Child care worker" shall mean those staff with whose primary duties are the day-to-day ongoing supervision of residents.

E. "Commissioner" shall mean the Commissioner of the Minnesota Department of Corrections.

F. "Controlled substance" shall mean a drug, substance or immediate precursor in Schedules I through V of Minn. Stat. § 152.02, ch. 152. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquor or tobacco.

G. "Department of Corrections" or "department" as used in these standards shall mean the Minnesota Department of Corrections.

H. "Disciplinary segregation" or "room restriction" shall mean that status assigned a juvenile as a consequence or means of control resulting from a violation of facility rules or statutes. Such status shall consist of confinement in a room or housing unit separate from others who are not on disciplinary segregation status.

I. "Emergency" shall mean any significant incident or disruption of normal facility procedures, policies, routines or activities such as fire, riot, natural disaster, suicide, or assault on staff.

J. "Facility administrator" shall mean the chief executive officer, superintendent, director or other individual who has been assigned, designated or delegated full time responsibility and authority for the administration and operation of a juvenile residential facility.

K. "Governing authority" shall mean the political body, political subdivision or the board of directors of a corporation.

L. "Inspection" shall mean an on-site assessment of existing conditions and their relationship to existing rules.

M. "Juvenile residential facility" shall mean any private, city, county, city and county, or multiple county juvenile residential facility which constitutes a dispositional alternative available to the juvenile court under the provisions of Minn. Stat. § 260.185 having a residential component with the exception of group foster homes as defined in Department of Corrections rule 11 MCAR § 2.445 G.

N. "Legend drug" shall mean a drug which is required by federal law to bear the following statement: "Caution: Federal law prohibits dispensing without prescription."

O. "Medicine" shall mean any remedial agent that has the property of curing, preventing, treating or mitigating diseases, or that is used for that purpose. For the purpose of these rules, medicine shall include legend and non-legend drugs.

P. "Policy" shall mean a written statement declaring mission, purpose, and ideological position.

Q. "Procedure" shall mean a statement establishing the action plan to accomplish policy.

R. "Resident" shall mean any individual confined and residing in the juvenile residential facility.

S. "Substantially conform" shall mean a compliance rating of 100% on items labeled mandatory and a rating of 70% compliance on all other items in this rule.

T. "Variance" shall mean the waiver of a specific rule for a specific period of time.

11 MCAR § 2.567 Personnel.

A. Staff health. All personnel shall be screened for tuberculosis prior to employment. Such tests shall be of either the tuberculin skin test or the chest roentgenogram (x-ray). If a skin test is positive, a chest roentgenogram (x-ray) shall be required. Additional testing shall be required upon known exposure to tuberculosis. (Mandatory)

B. Recruitment.

1. The selection, appointment and promotion of facility personnel shall be based on assessed ability.

2. All child care workers shall be a minimum of 18 (eighteen) years of age.

3. Recruitment standards shall be reasonable and geared to reach the widest possible work force. They shall set forth the basic requirements of age, ability, preparatory experience, and physical condition.

4. A criminal record check shall be conducted on all new employees prior to employment. (Mandatory)

C. Employee evaluation. Each employee shall complete a probationary period and be evaluated during the probationary period before being permanently appointed. The evaluation shall be in writing, discussed with the employee and made a part of the employee's personnel record.

D. Staffing requirements.

1. Staffing plan. The facility administrator shall prepare and retain a staffing plan indicating the personnel assignments and duties.

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PROPOSED RULES

2. Minimum staff requirements.

- a. Facility administrator. There shall be a single administrator or chief executive of each facility.
- b. Person in charge. In the absence of the facility administrator, a staff person shall be designated as person in charge.
- c. Staff presence. No person shall be housed in the facility without a staff person on duty, awake and alert at all times, and capable of responding to reasonable needs of residents. (Mandatory)
- d. Sex of staff. Staff members shall not be placed in positions of responsibility for the supervision and welfare of residents of the opposite sex in circumstances that can be described as invasion of privacy, degrading or humiliating to the resident.
- e. Back-up staff. Where staff of one sex are used as program resource with residents of the opposite sex, staff of the residents' same sex must be on duty, awake and alert in the facility.
- f. Relief staff. Personnel shall perform ancillary functions such as transportation or court escort to the extent that security, supervision, program, and facility administration are not jeopardized by such activities.
- g. Training for relief staff. Part-time and relief staff shall complete orientation training appropriate to assigned responsibilities. Such orientation shall be documented.
- h. Child care workers, educational/vocational, social service and recreation staff ratio to residents shall be as follows:
 - (1) During waking hours, the ratio of staff to residents shall be one (1) staff to ten (10) residents. Staff who are not involved with the youth in direct service shall not be considered in this ratio. (Mandatory)
 - (2) During non-waking hours of youth, a combination of staff resources and physical plant resources shall provide a procedure for reporting incidents. This shall include a staff person present, awake and alert during these times. (Mandatory)
- i. Educational/vocational staff and program shall be provided consistent with Minnesota Department of Education Rules 5 MCAR §§ 1.0120-1.0129. (Mandatory)
- j. Recreation staff. Each facility shall have a minimum of one (1) staff person designated to develop, implement and coordinate recreational programs for the residents and act as a liaison between the facility and the community. Such person shall have training and/or experience appropriate to required responsibilities.
- k. Volunteer coordinator.
 - (1) The facility administrator shall designate a person to coordinate volunteer services if volunteers are utilized by the facility.
 - (2) There shall be a system for registration and identification of volunteers.
 - (3) Volunteers shall agree in writing to abide by facility policies.
 - (4) Written policies shall specify that volunteers perform professional services only when certified or licensed to do so by appropriate professional organizations.
 - (5) Written policies and procedures shall provide that the administrator curtails, postpones or discontinues the services of a volunteer or volunteer organization when there are substantial reasons for doing so.

1. Social service staff (case management personnel). A minimum of one (1) staff person for every twenty-five (25) residents shall be designated responsible for the coordination of resident program plans.

11 MCAR § 2.571 Staff training (pre-service and in-service).

A. Training plan.

1. The facility administrator shall develop an orientation training plan for new employees and volunteers and make provisions for on-going in-service training of employees and volunteers.

2. Written in-service training plans shall be developed annually.

B. Pre-service orientation training.

1. Child care workers shall complete a minimum of forty (40) hours of pre-service orientation training prior to assuming full responsibility for supervising residents.

2. Written policies and procedures shall provide that full-time staff or volunteers who work in direct contact with residents shall receive a total of forty (40) additional hours of training during their first year of employment in the following areas:

- a. Human relations and communication skills;

- b. Crisis intervention;
- c. Special needs of youth;
- d. Problem-solving and guidance;
- e. Facility's philosophy for handling troubled youth;
- f. Resident rules and regulations;
- g. Rights and responsibilities of residents;
- h. Grievance and disciplinary procedures;
- i. Security procedures;
- j. Physical restraint procedures;
- k. Supervision of residents;
- l. Report writing;
- m. Significant legal issues;
- n. Interaction of elements of the juvenile justice system;
- o. Relationships with other agencies;
- p. Fire emergency procedures; and
- q. First aid and life-sustaining functions.

C. In-service training. Child care workers, middle management and non-management professional personnel shall complete forty (40) hours of in-service training per year.

1. Management personnel and facility administrators shall complete forty (40) hours of training per year.

2. Personnel who work with residents, who are confined separately from the total population, shall receive specialized training in the problems people encounter who live in confinement.

3. Space and equipment required for training and staff development shall be provided.

11 MCAR § 2.575 Staff deployment, job description, work assignments, post orders, policies and procedures.

A. Job descriptions.

1. Each facility administrator shall develop written job descriptions for all position classifications and post assignments which define responsibilities, duties and qualifications.

2. The job descriptions shall be readily available to all employees with copies on file in the administrator's office.

B. Work assignments. Work assignments shall be consistent with qualifications as stated in job descriptions and the approved staffing plan of the facility.

C. Staff policies and procedures. The facility administrator shall develop written policies and procedures such as escape, fire, medical emergencies, admission, release, laundry, feeding, canteen, visiting, and security checks.

D. Policy and procedure manuals.

1. Policy manuals shall be available to all staff within the facility.

2. The policy and procedures manual shall be reviewed and updated annually.

E. Personnel policies. Written personnel policies shall be developed by the facility administrator and governing body which specify hours of work, vacations, illness, sick leave, holidays, retirement, employee health services, group insurance, evaluation procedures, promotions, personal hygiene practices, attire, conduct, and disciplinary actions, and shall be available to employees.

F. An affirmative action program shall be adopted by the facility's governing body and made a part of the policy manual. (Mandatory)

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PROPOSED RULES

G. The facility shall have a grievance procedure for employees.

H. The facility administrator shall develop a written plan for dissemination of information to the public, to government agencies, and to the media.

11 MCAR § 2.579 Records and reports.

A. Maintenance of records and reports. The following records, reports and statistics shall be maintained for a period of one (1) year following the last state inspection or longer if necessary to meet applicable statutory or local unit of government requirements:

1. Admission and release records; (Mandatory)
2. Resident personal property records;
3. Clothing, linen and laundry records;
4. Records of budget requests and work orders;
5. Special occurrence records;
6. Records of policies and procedures;
7. Employee personnel records;
8. Records of staff training;
9. Accounting records;
10. Food service records;
11. Daily log;
12. Programming records;
13. Medical and dental records; and
14. Disciplinary records.

B. Storage of records.

1. Space shall be provided for the safe storage of records.
2. Records shall be filed in an organized and retrievable manner.
3. Resident records shall be preserved as required by law.

C. Filing of records.

1. Records of released residents shall be filed in the facility for one (1) year following discharge.
2. Confidentiality of resident records and resident access to personal files shall be kept in conformity with state law. (Mandatory)
3. The contents of case records shall be organized according to an established format.
4. Case records shall be safeguarded from unauthorized and improper disclosure.

11 MCAR § 2.583 Resident welfare.

A. Facility program.

1. Program objectives. The facility administration shall prepare a written program description and a statement of objectives and goals.
2. Special staff assignment. Every client shall be assigned to a staff person to assure regular face to face contact. (Mandatory)
3. Social services. The facility administrator shall maintain a social service program, such as individual and group counseling, community services and family services. (Mandatory)
4. Counseling clients. Policies and procedures shall assure that a staff person is available to counsel clients upon request and during times of crisis.
5. Intake policies and procedures.
 - a. The facility shall have a written program description that describes the facility's goals and objectives, programs and services offered and the admission requirements.

b. Intake policies shall be organized in a form suitable for distribution to staff, residents, referral resources, funding agencies and the general public.

c. Intake form. The facility shall complete an intake form on each resident which shall include:

- (1) Name;
- (2) Address;
- (3) Date of birth;
- (4) Sex;
- (5) Race or ethnic origin;
- (6) Reason for referral;
- (7) Whom to notify in case of emergency;
- (8) Date information gathered;
- (9) Name of referring agency or committing authority;
- (10) Social history, where available;
- (11) Special medical problems or needs;
- (12) Personal physician, if applicable; and
- (13) Legal status, including jurisdiction, length and conditions of placement.

B. Separation.

1. Separation of male and female juveniles shall provide complete separation of living and sanitation facilities. (Mandatory)

2. Facility administrators who schedule coeducational activities shall staff the activities consistent with personnel rules stated herein.

C. Information to residents.

1. Copies of rules shall be made available to all residents and include:

- a. Rules governing conduct, disciplinary consequences and disciplinary procedures;
- b. Procedures for obtaining personal hygiene and canteen items; and
- c. Policies and procedures governing visiting, correspondence, bathing, laundry, clothing, bedding exchange and other operational procedures.

2. Each resident, within twenty-four (24) hours of admission (exclusive of weekends and holidays), shall be provided with a copy of the program information and activities available.

3. Rules as well as program information shall be read to those residents who are unable to read.

D. Individual program plan. A written program plan individualized for each resident shall be developed.

E. The resident's program plan shall be reviewed and revised as appropriate on a monthly basis or more often if appropriate.

F. Pre-release planning and follow-up programs shall be developed for each resident.

G. The facility program shall encourage and foster the development and use of community resources.

H. Individualized progress reports shall be made available to the parent or legal guardian upon request.

I. Written policies and procedures shall exist for resident grievances and appeal procedures.

J. Private facilities shall have written criteria defining the procedures for removal of a resident from the program.

K. Resident discipline.

1. Administrative segregation.

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PROPOSED RULES

a. The facility administrator shall develop and implement policies and procedures for administrative segregation.

b. Administrative segregation shall consist of separate and secure housing, but shall not involve any deprivation of amenities or privileges normally afforded other residents, except to the extent that the protection of the resident, staff or public justify the necessity of such deprivation.

c. Any resident placed on administrative segregation shall be reviewed by the facility administrator or a designee within eight (8) hours or whenever the original circumstances that placed him/her in such a status have been altered. Continuation or change of such status shall require documented approval of the facility plan or a designee.

2. Discipline plan. (Mandatory)

a. All facilities shall have a resident discipline plan, which explains the consequences or administrative sanctions for specific behaviors, omissions, the administrative process for handling major and minor violations and the right to internal review.

b. The facility plan shall include a system of due process which has been reviewed and approved by an appropriate legal advisor.

3. Disciplinary segregation (room restriction).

a. Disciplinary segregation shall be used only with due process procedures.

b. A resident placed in disciplinary segregation prior to a due process hearing shall have a due process hearing within twenty-four (24) hours of such segregation (exclusive of holidays and weekends) unless documented cause can be shown for delays. As examples:

(1) Resident request for delay;

(2) Logistically impossible as in the case of mass disturbances.

4. Other limitations on disciplinary actions.

a. Residents shall be issued clothing and bedding. Residents who persist in the destruction of bedding or clothing may be deprived of such articles. The decision to deprive residents of clothing and bedding shall be reviewed by the shift supervisor during each eight (8) hour period.

b. The delegation of authority to any resident or group of residents to exercise the right of punishment over any other resident or group of residents is prohibited.

c. No resident shall be deprived of the use of materials necessary to maintain an acceptable level of personal hygiene.

5. Policies and procedures shall govern the use of restraints.

a. Instruments of restraint shall not be used except:

(1) As a precaution against escape during a transfer;

(2) On medical grounds by direction of a consulting or attending physician or psychologist; or

(3) By order of the facility administrator or person in charge to prevent a resident from injuring self, others or damaging property.

b. Such instruments shall not be applied for any longer time than is necessary.

c. Each incident involving the use of restraints consistent with M.5.a.(2) or M.5.a.(3) shall be documented and placed on file.

d. Facility personnel authorized to use restraints shall receive training in the use of restraints. Evidence of such training shall be documented and on file.

N. Activities.

1. Each facility administrator shall develop and implement a written plan for the constructive scheduling of resident time. (Mandatory)

a. The facility administrator shall arrange with the clergy to conduct religious services and provide counseling if requested. (Mandatory)

b. No resident shall be required to attend religious services. (Mandatory)

c. Religious services shall be held in such a location that the residents who do not wish to participate do not have to. (Mandatory)

d. Any resident desiring to read the Bible or sacred book of another religion shall be provided a copy at the expense of the county. (Mandatory)

- e. Attendance or lack of attendance at religious services shall not be considered a basis for any right or privilege within the facility. (Mandatory)
2. The facility administrator shall develop and implement a plan for library service to include:
- a. Access to current leisure reading material; and
 - b. Textbooks necessary to complete a course of study.
 - c. Legal books and references requested by residents shall be provided upon request to the extent resources permit. The facility's governing body shall not be responsible for purchasing legal books and references.
3. Work assignments. The facility shall develop a policy and procedure on work to include:
- a. Work activities such as maintaining own room and maintaining activity areas;
 - b. Not being required to perform personal duties for staff or maintain areas away from the facility;
 - c. Eligibility criteria for work activities;
 - d. Statement that care shall be taken not to require juveniles to perform work they cannot physically perform.
4. Exercise and recreation. Each facility administrator shall develop and implement a planned physical exercise and recreational activities schedule for all residents. Such a program shall include:
- a. Regulations to protect the facility's security and the residents' welfare;
 - b. Provisions for a minimum of two (2) hours daily of organized and supervised physical exercise and recreational activities and leisure time activities, excluding time spent watching television, for all residents. Organized and supervised means pre-planned exercise or activities supervised by staff qualified to direct same;
 - c. Indoor space and equipment for active recreation; and
 - d. Space, equipment and supportive staff for outdoor recreational programming.
5. The administrator shall develop leisure time activities such as television, radio, table games, hobby craft items and library materials.
6. Visiting plan. The facility administrator shall develop resident visiting policies and procedures to include: (Mandatory)
- a. Security rules;
 - b. Provisions for residents to meet with attorneys. Attorney visits shall not be monitored;
 - c. The numbers of visits for each resident and the number of visitors permitted for each visit;
 - d. Visiting schedule offering both evening and daytime hours on weekdays and weekends;
 - e. Visiting for members of the resident's immediate family, counsel, and clergyman and others who would be helpful in planning for the child;
 - f. A written statement of the administrators right and responsibility to deny a visit to a resident when he has reasonable grounds to believe the visit might endanger the security of the facility;
 - g. The denial of a visit shall be in writing with a copy being issued to the resident, the person attempting to visit and the resident file;
 - h. Visitors shall register names, addresses and relationships to resident;
 - i. No area used for resident visiting shall use audio monitoring equipment during visits;
 - j. Visits conducted in residents' living areas shall not conflict with the normal activities of residents not receiving visitors.
7. Correspondence and telephone. The facility administrator shall develop a policy for resident mail consistent with the legal rights of juveniles and the facility's security.
8. Juvenile clothing, bedding and laundry service.

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PROPOSED RULES

- a. Each resident shall have neat and clean clothing appropriate to the season.
- b. Clothing used to supplement residents' personal clothing shall be of a non-jail/non-uniform type.
- c. Clothing exchanges shall occur minimally twice a week or more often as necessary.
- d. Residents excess personal clothing shall be returned to designated family members or stored in a manner which prevents mildew and other damage.
- e. Policies and procedures shall govern possession of personal property by each resident, inventory control and storage of excess property.

9. Linens and bedding.

- a. Each resident admitted to the facility shall have the following articles made available:
 - (1) One bath towel;
 - (2) One clean, firm, fire-retardant mattress (polyurethane mattresses are prohibited);
 - (3) Two sheets or one sheet and a clean mattress cover;
 - (4) Sufficient clean blankets to provide comfort under existing temperature conditions;
 - (5) One pillow and one pillow case.
- b. Clean linens shall be furnished once each week.
- c. Bedding and linens which are worn out or unfit for further use shall not be used.

10. Removal of clothing and bedding. Policies and procedures should provide the guidelines for removing clothing and/or bedding from a resident if the behavior of the resident threatens the safety and/or security of the individual, others or the facility. A special occurrence report shall be completed and filed within the facility.

11. Laundry services.

- a. Laundry services shall meet daily clothing, linen and bedding needs.
- b. Care shall be taken to maintain separation of clean and soiled linens and clothing.
- c. Residents' personal clothing and other non-linen items shall be laundered in accordance with appropriate washing procedures for the various fabrics.

12. Emergencies and special occurrences.

- a. Emergency plan. The facility administrator shall develop a written disaster plan. The plan shall include: (Mandatory)
 - (1) Location of alarms and fire fighting equipment;
 - (2) Emergency drill policy;
 - (3) Specific assignments and tasks for personnel;
 - (4) Persons and emergency departments to be notified;
 - (5) Procedure for evacuation of all persons;
 - (6) Arrangements for temporary confinement of residents.
- b. The plan shall be developed for the facility and with the assistance and advice of the local fire and/or rescue authority (Civil Defense).
- c. Copies of the disaster plan containing basic emergency procedures shall be available at a central staff station.
- d. All employees shall review emergency procedures every six (6) months. Evidence of such review shall be documented.
- e. All incidents of a serious nature which endanger the lives or physical welfare of staff or residents shall be formally reported to the Department of Corrections within ten (10) days.
 - (1) Incidents of a serious nature shall include:
 - (a) Death;
 - (b) Serious injury or illness (accidental, self or other inflicted, incurred subsequent to placement);
 - (c) Fire causing serious damage;

- (d) Riot;
- (e) Assaults requiring medical care;
- (f) Other serious disturbances;
- (g) Occurrences of infectious diseases and disposition; and
- (h) Escape (applicable to secure facilities).

(2) Special occurrences shall be reported on forms provided by the Minnesota Department of Corrections.

(3) In the event of serious illness, accident or imminent death, the resident's family or others who maintain a close relationship with him/her shall be notified.

f. When a resident's death occurs:

- (1) The date, time and circumstances of the resident's death shall be recorded;
- (2) The coroner's office shall be notified;
- (3) Personal belongings shall be handled in a responsible legal manner; and
- (4) Records of a deceased resident shall be retained for a period of time in accordance with law.

11 MCAR § 2.587 Food service.

A. General requirements.

1. The goals of food service in each facility shall be to provide food and beverages to residents that are nutritionally adequate; palatable; produced in a manner to prevent foodborne illness; of adequate quantity and variety; served at appropriate temperatures; and, prepared by methods which conserve nutritional value.

2. The designated food service supervisor shall be trained in food service operations prior to assuming this responsibility.

B. Food handling practices.

1. Food service shall be in accordance with the Minnesota Department of Health Rules 7 MCAR §§ 1.161-1.170. (Mandatory)

2. Food catered to a facility shall be obtained from a source licensed by the Minnesota Department of Health or other authorized agency and transported, handled and served in a manner consistent with 7 MCAR §§ 1.161-1.170. (Mandatory)

C. Dietary service. Nutritional needs of residents shall be met in accordance with the following dietary allowances: (Mandatory)

- 1. Meat or protein group. Two (2) or more servings per day. A serving within this group is defined as:
 - a. 2-3 ounces cooked, lean, edible meat
 - b. 2 medium eggs
 - c. 4 tablespoons peanut butter
 - d. 1 cup dry beans
- 2. Milk group. Two (2) servings per day. A serving is defined as:
 - a. 1 cup of milk
 - b. 1 ounce of cheese
 - c. ½ cup cottage cheese
- 3. Cereal and bread group. Four (4) or more servings per day. A serving is defined as:
 - a. ½ to 1 slice of bread
 - b. ½ to ¾ cup cereal

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PROPOSED RULES

- c. ½ to ¾ cup rice
- d. ½ to ¾ cup of pasta

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

- a. ½ cup potatoes
- b. ½ cup cooked vegetables
- c. 4 pieces raw vegetables
- d. ½ cup fruit
- e. 1 cup citrus juice

D. There shall not be more than fourteen (14) hours between a substantial evening meal and breakfast. At least three (3) meals shall be made available at regular times during each twenty-four (24) hour period.

E. Any facility housing residents in need of medically prescribed therapeutic diets shall have documentary evidence that such diets are provided for as ordered by the attending physician.

F. The food service plan of the facility shall provide special diets required to meet the medical and religious needs of the residents.

G. Food shall not be withheld as punishment for unacceptable behavior. (Mandatory)

H. Meals shall be served under supervision of staff.

I. Records of menus and of foods purchased shall be retained for one (1) year.

J. Menus shall be planned and posted one (1) week in advance and reviewed regularly by a nutritionist or dietician.

K. A minimum of two (2) hot meals shall be provided each day.

L. Food management policies and procedures shall include a food expenditure cost accounting system designed to isolate cost per meal per resident.

M. Canteen services shall be available to residents on a twice per week basis. Facilities which do not operate a canteen shall implement a system whereby residents have the opportunity to purchase or obtain sundry items on a twice per week basis.

N. Food storage.

1. All food prepared in bulk shall be stored in seamless containers after opening the original container.

2. Dry milk and milk products after opening shall be stored in seamless, air-tight containers.

3. Storage of non-perishable food shall be stored off the floor on washable shelving in a ventilated room.

4. Food shall be protected from dust, flies, rodents, vermin, overhead leakage and other sources of contamination, and shall be placed away from areas with excessive heat.

5. All perishable food (fresh fruit and vegetables) and potentially hazardous food (meat and dairy products) shall be stored off the floor on washable, corrosion-resistant shelving under sanitary conditions, and at temperatures which will protect against spoilage.

6. Meat and dairy products shall be stored at forty (40) degrees Fahrenheit or below, and fruit and vegetables at fifty (50) degrees Fahrenheit or below. When stored together, the lower temperatures shall apply. Temperatures shall be monitored by an accurate thermometer.

7. The storage of detergents, cleaners, pesticides and other non-food items, including employees' personal items, shall be prohibited in food storage areas.

8. Returned portions of food and beverages from individual servings shall not be reused unless such food or beverage is served in a sealed wrapper or container which has not been unwrapped or opened.

9. Ice.

a. Ice shall be stored and handled in a sanitary manner.

b. Stored ice shall be kept in an enclosed container.

c. An ice scoop shall be stored separate from the ice to prevent the handle from contact with the ice.

O. Transport of food.

1. Food shall be covered during transport through non-dietary areas, but need not be covered when served in a contiguous dining area.

2. The food service system shall be capable of maintaining hot foods at one-hundred-fifty (150) degrees Fahrenheit or higher; cold food at forty (40) degrees Fahrenheit or lower.

3. A dumbwaiter or conveyor, used for the transport of soiled linen or soiled dishes, shall not be used for the transport of food.

11 MCAR § 2.591 Security.

A. Policies and procedures. Security policies and procedures shall be developed to cover the following:

1. Control and recovery of contraband;
2. Delivery and service procedure;
3. Prohibition on firearms and other weapons in resident areas;
4. Search and shake down procedures;
5. A system of accounting for the location of residents;
6. Riot prevention and control; and
7. Supervision of all residents outside the facility perimeter.

B. Admissions.

1. The intake procedure conducted by the admitting officer for all admissions shall provide for a thorough search of the resident and belongings. In the event of all new admissions, a shower (delousing if indicated), an assessment of health status and physical needs, an inventory of resident's property, properly recorded and signed by the owner as correct, and completion of an admission form shall be completed.

2. No juvenile shall be received by the staff of a facility until the arresting or escorting officer has produced proper credentials and/or until the proper documents have been completed identifying the purpose for placement. The arresting or escorting officer shall be required to sign his name and title on a form which is part of the intake and record.

3. All intake procedures shall be conducted in a manner and location that assures the personal privacy of the resident and the confidentiality of the transaction from unauthorized personnel.

C. Releases.

1. Upon release of a resident, the property of the resident, unless held for authorized investigation or litigation, shall be returned with a signed receipt acknowledging same.

2. Residents shall be permitted to make arrangements for transportation prior to release.

D. Contraband control searches.

1. Visitors who seek to enter a security area of the facility and refuse to submit to a search by a staff member of the same sex, shall be denied the privilege to visit if such procedures are established for the facility.

2. The facility shall be regularly inspected for contraband, evidence of breaches in security, and inoperable security equipment.

E. Locks and keys.

1. When not in use, all keys to locks shall be properly tagged and securely stored.

2. One (1) complete set of facility keys and locks shall be kept on hand for replacement purposes.

3. Keys and locks that serve a critical security purpose shall be easily identifiable and never issued except upon order of the facility administrator or person in charge, and in accordance with established procedure. (Mandatory)

4. No security keys and locks shall be made available to residents.

F. Dangerous material. Material dangerous to either security or safety shall be properly secured. (Mandatory)

G. Count procedure.

1. Each facility shall have a written policy and procedure governing counts.

2. Formal counts shall occur minimally every eight (8) hours and shall be logged.

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11 MCAR § 2.595 Environmental/personal health and sanitation.

A. Availability of medical and dental resources.

1. The facility shall have a licensed physician(s) or medical resources designated for the medical supervision, care and treatment of residents. (Mandatory)
2. The facility shall insure twenty-four (24) hour a day availability of consultation, advice and emergency medical service.
3. The local health authority shall be requested to inspect annually the facility with respect to sanitation and health conditions.
4. Each facility shall have emergency dental care available to residents.
5. Ambulance services shall be available on a twenty-four (24) hour a day basis. (Mandatory)

B. Physical examination.

1. Residents shall have a general medical history and physical examination or health assessment within thirty (30) days preceding admission or within (7) days after admission.

a. The medical report shall be filed in the resident's health file and shall include appropriate instructions for meeting special needs, such as diet or medications.

b. Registered nurses or licensed practical nurses performing health assessments shall have access to a consulting licensed physician.

c. Stimulants, tranquilizers, psychotropic drugs, and drugs requiring intramuscular administration shall be prescribed only by a physician. (Mandatory)

2. Policies and procedures for medical care shall exist for the following:

- a. Obtaining medical consent;
- b. Receiving screening;
- c. Collecting health appraisal data;
- d. Medical services;
- e. Dental services;
- f. Emergency medical and dental services;
- g. First aid;
- h. Notifying next of kin or legal guardian in case of serious illness, injury or death;
- i. Providing chronic care;
- j. Convalescent care;
- k. Medical preventive maintenance;
- l. Screening, referral and care of mentally ill and retarded residents;
- m. Making staff aware of special medical problems;
- n. Implementing the special medical program;
- o. Immunizing, where possible;
- p. Delousing procedures;
- q. Providing detoxification procedures;
- r. Providing pharmaceuticals;
- s. Special medical programs; and
- t. Follow-up medical referral after discharge.

3. Receiving screening shall be part of the intake process. Areas to be assessed include:

- a. Possibility of pregnancy;
- b. Possibility of venereal disease;
- c. Current illnesses and health problems;

- d. Medications taken and special health requirements;
- e. Status of immunizations;
- f. Screening of other health problems designated by the responsible physician;
- g. Behavioral observation, including state of consciousness and mental status;
- h. Notation of body deformities, trauma markings, bruises, lesions, ease of movement, and/or jaundice; and
- i. Conditions of skin and body orifices, including rashes and infestations.

C. Sick call. The facility shall provide space, staff, and a procedure for daily sick call.

D. Posting of available resources. A listing and telephone numbers of the medical, dental and ambulance resources and telephone numbers shall be posted at the facility's primary staff station.

E. Hospitalization of a resident.

1. Each facility administrator shall insure the availability of hospital services for residents.

2. When a resident requires hospitalization, he/she shall be supervised on a twenty-four (24) hour per day basis unless the following conditions have been satisfied:

- a. The resident has been deemed not in need of custody supervision; or
- b. The resident is medically incapacitated in the opinion of the attending physician.

F. First aid.

1. Child care workers responsible for the supervision, safety and well-being of residents shall be trained in basic first aid procedures and have a current first aid certificate (renewed every three years).

2. Facilities shall have a minimum of one (1) first aid kit which is approved by the physician located at the facility's control center or primary staff station.

3. The first aid kit shall be inspected regularly by a designated staff person to assess the need for replenishment of supplies. Such inspection shall be documented.

4. One person on duty per shift shall have training in receiving screening, basic life support, cardiopulmonary resuscitation (CPR), and recognition of symptoms of the illness most common to the facility.

G. Medical and dental records.

1. The facility shall record complaints of illness or injury by residents. The facility response shall be documented.

2. Medical and dental records shall be maintained on each resident.

H. Personal hygiene.

1. Each resident shall be permitted daily bathing or showering.

2. Residents shall receive provisions for obtaining personal hygiene items at facility expense i.e., soap, sanitary pads, toothbrush and toothpaste.

3. There shall be hair care services available to residents.

4. Each living unit provides, at a minimum:

- a. One (1) toilet for every five (5) residents;
- b. One (1) washbasin for every five (5) residents;
- c. One (1) shower for every five (5) residents; and
- d. A bathtub in the facility available to all residents.

I. Delivery, supervision and control of medicines.

1. Delivery of medicine shall be conducted only by licensed medical or nursing personnel or by facility staff members who have been trained in the delivery of medications.

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2. The delivery of legend drugs by unlicensed staff shall be under the direction of a consulting physician.
3. The facility administrator shall develop plans and procedures for the secure storage, delivery, supervision and control of medicine. Such plans and procedures shall include:
 - a. Storage.
 - (1) All medicines shall be kept in a secure storage place.
 - (2) Medicine requiring refrigeration shall be stored in a secure refrigerator.
 - (3) Residents shall not be allowed in any room used for the storage of medicine without direct staff supervision.
 - (4) Only staff authorized to deliver medicine shall have access to keys for medicine storage areas.
 - (5) Stock supplies of legend (prescription-type) drugs shall not be maintained. (Mandatory)
 - (6) Prescribed medicine shall be kept in its original container, bearing the original label.
 - (7) Poisons and medicine intended for external use shall be clearly marked and shall be stored separate from medicine intended for internal use.
 - b. Delivery, control and recording of legend drugs.
 - (1) Diabetics with permission of the attending physician shall be permitted to self-administer insulin injections.
 - (2) Other medicine administered by injection shall be given only by a physician, registered nurse, or licensed practical nurse. (Mandatory)
 - (3) Unless ordered otherwise by the attending physician, medicine delivered to residents shall be self-administered under staff supervision.
 - (4) Procedures shall be developed for the positive identification of the recipient of all medicine.
 - (5) Prescribed medicine shall be delivered in accordance with the physician's instructions at the correct time and in the prescribed dose.
 - (6) No resident, while receiving legend drugs, shall receive any non-legend drug without the approval of the attending physician. (Mandatory)
 - (7) Adverse reactions to drugs shall be reported at once to the attending physician and an explanation shall be made in the resident's record. (Mandatory)
 - (8) Resident refusal of prescribed medicine shall be reported to the attending physician and an explanation shall be made in the resident's record.
 - (9) No resident shall be deprived of medicine as prescribed due to penalty or staff retaliation. (Mandatory)
 - (10) A physician shall be contacted prior to the next prescribed medicine dosage time for instructions on all newly admitted residents who are either in possession of prescribed medicine or indicate a need for such. (Mandatory)
 - c. Recording of legend drugs entering the facility. Records of receipt, the quantity of such drugs, and of the disposition of all legend drugs shall be maintained in sufficient detail to enable an accurate accounting at any time.
4. If authorized by the attending physician, prescribed medicine belonging to a resident shall be given to them when released or to appropriate authorities when transferred. This shall be recorded in the resident's record.
5. Unused portions of prescribed medicine shall be destroyed by incineration or by flushing into the sewer system. (Mandatory)
 - a. Such destruction shall be performed by the facility administrator or a designee and witnessed by a staff member.
 - b. A notation of the destruction shall be made in the resident's record and shall include the name and quantity of the drug destroyed and shall be signed by the facility administrator or a designee and staff witness.
6. Unused portions of controlled substances shall be handled by contacting the Minnesota Board of Pharmacy. (Mandatory)
7. Methadone programs shall not be made available unless in compliance with all existing laws and regulations governing such programs. (Mandatory)
8. Written policy shall prohibit the facility administrator from conducting medical or pharmaceutical testing for experimental or research purposes.
9. If medical services are delivered in the facility or through contract services, space, equipment, supplies and materials shall be provided.

J. Isolation for contagious disease.

1. Residents who are suspected of having a contagious disease shall be detained in isolation for only that period of time necessary to obtain advice and consultation from a physician.

2. Continuation of such isolation shall be determined by the attending physician.

3. A resident placed in isolation for medical reasons shall not be deprived of any more privileges, rights or amenities than shall be consistent with his/her classification prior to such assignment except to the extent that such privileges, rights or amenities would endanger the health of staff, other residents, or the public.

K. Mentally ill residents. Screening and referral for care shall be provided to mentally ill or retarded juveniles. The physician shall provide a written list of symptoms or behavior indicative of mental illness and retardation for staff training and shall designate specific referral sources.

1. If the facility administrator or designee determines a resident to be mentally ill, a licensed physician's opinion (preferably a psychiatrist) shall be secured as soon as possible, but not more than eight (8) hours after such determination.

2. A licensed physician's opinion is supportive of the facility administrator or designee, and if practical and feasible, such resident shall be transferred to a medical facility designated by the county and approved by the State Department of Health for diagnosis, treatment and evaluation of such suspected mental illness pursuant to Minn. Stat. § 253A.04, Emergency Hospitalization of Mentally Ill and Mentally Deficient Persons. (Mandatory)

L. Housekeeping, sanitation, plant maintenance.

1. The physical plant shall meet all standards required by the State Building Code, State Fire Marshal and the State Health Department. (Mandatory)

2. General requirement. The entire facility inclusive of every building, structure or enclosure utilized by the facility—walls, floors, ceiling, registers, fixtures, equipment and furnishings shall be kept in good repair.

3. Established plan. The person responsible for plant maintenance, housekeeping and sanitation shall develop and implement a written plan with identified policies and procedures for same.

4. Inspections. The facility administrator shall develop and implement a written plan for the daily inspection of the facility with respect to housekeeping, sanitation, and plant maintenance. Such inspections shall be recorded.

5. The facility administration shall have available to it the services of a qualified fire and safety officer who reviews all fire and safety policies and procedures at least annually.

6. Written policies and procedures shall specify the facility's fire prevention regulations and practices to ensure the safety of staff, residents and visitors. These include provision for an adequate fire protection service, a system of quarterly fire inspection and testing of equipment, an annual inspection by local or state fire officials, and availability of fire hoses or extinguishers at appropriate locations throughout the facility. (Mandatory)

7. There shall be an automatic fire alarm and heat and smoke detection system approved by the state fire marshal or recognized state authority, and tested on a regular basis. (Mandatory)

8. Work requests.

a. The facility administrator shall develop policies and procedures designed to detect and correct building and equipment deterioration, safety hazards and unsanitary conditions.

b. Such policies and procedures shall include:

(1) A requirement that the facility staff report unsanitary and unsafe conditions as well as physical plant and equipment repairs and replacement needs;

(2) A process whereby work requests are prioritized and filed with the governing body by the facility administrator in an expedient manner;

(3) A records system allowing for review of budget and work requests, expenditures, dates and actions pursuant to detection of need, submission of work orders and completion of requests.

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9. Insect and rodent control. Any condition or in the facility conducive to harborage or breeding of insects, rodents, or other vermin shall be eliminated immediately. (Mandatory)

M. Sleeping rooms.

1. Single occupancy sleeping rooms shall have a minimum of seventy (70) square feet of floor space per person.
2. Double occupancy sleeping rooms shall have a minimum of sixty (60) square feet of floor space per person.
3. Multi occupancy sleeping rooms shall have a minimum of sixty (60) square feet of floor space per person.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

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

Board of Animal Health

Adopted Amendments to Rules 3 MCAR § 2.044 The Establishment and Operation of Public Stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification

The rules proposed and published at *State Register*, Volume 5, Number 18, pp. 691-696, November 3, 1980 (5 S.R. 691) are now adopted with the following amendments:

Amendments as Adopted

3 MCAR § 2.044 E.3.a. Swine sold for slaughter shall be identified to the herd of origin as required in ~~LSB 66~~ 3 MCAR § 2.066 Slaughter cattle and slaughter swine identification.

3 MCAR § 2.066 C. Each agent or agency failing to comply with the provisions of this ~~regulation rule~~ is in violation of the rule Minn. Stat. § 35.70 ~~and the penalties invoked as provided in Minn. Stat. ch. 35, § 35.70 (1978).~~

Office of the Attorney General

Adopted Rules Governing Procedures for the Review of Rules and Petitions for Rulemaking, and the Repeal of Rules Relating to Basic and Supervisory Training of Peace Officers in the State of Minnesota and the Reimbursement Program of the Minnesota Peace Officer Training Board (AttyGen 201-218), Rulemaking Procedures (Non-Contested Cases) (AttyGen 301-325), and Model Rules for Contested Cases (AttyGen 401-425)

The rules proposed and published at *State Register*, Volume 5, Number 25, pp 1006-1018, December 22, 1980 (5 S.R. 1006) are adopted with the following amendments:

Rules as Adopted.

Chapters 2-4: AttyGen 201-425 [Repealed.]

Chapter 2: Rule review procedures.

1 MCAR § 1.202 B. Order Adopting. (For recommended format, see Exhibit H-1). ~~The original and three~~ Two copies of the Order Adopting the rule shall be submitted.

1. The Order Adopting shall indicate the time and place of the hearing and shall recite that proper notice was given, that all persons were given the opportunity to be heard, and that the rule adopted is needed and reasonable based on the record and applicable statutes. ~~The Order Adopting shall be separate from the Findings of Fact and Conclusions.~~

H. Affidavit of Mailing Notice of Hearing. (For recommended format, see Exhibit F.) The Affidavit of Mailing shall establish that the person executing the Affidavit served a copy of the Notice of Hearing on all persons and associations listed on the mailing list maintained by the agency by depositing in the United States mail a copy of the Notice of Hearing, properly enveloped, with postage prepaid pursuant to Minn. Stat. § 15.0412, and that such service was effected as required therein. The Affidavit of the person mailing the Notice of Hearing shall be ~~notarized~~.

P. Statement of Need and Reasonableness. ~~If the agency acts pursuant to a Petition for Adoption, Suspension, Amendment, or Repeal of a Rule (see Minn. Stat. § 15.0415) that sets forth the reasons that support a finding of need for and reasonableness of the rule, the Petition may be substituted for the Statement of Need and Reasonableness.~~

1 MCAR § 1.203 B. Order Adopting. (For recommended format, see Exhibit H-2.) ~~The original and three~~ Two copies of the Order Adopting the rule shall be submitted.

1. The Order Adopting shall recite that proper Notice was given, that all persons were given the opportunity to submit comment on the proposed rule, that seven or more persons did not request a hearing, and that the rule adopted is needed and reasonable. ~~The Order Adopting the rule shall be separate from the Findings of Fact and Conclusions.~~

H. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing. (For recommended format, see Exhibit F.) The Affidavit of Mailing shall establish that the person executing the Affidavit served a copy of the Notice of Intent to Adopt a Rule Without Public Hearing on all persons and associations listed on the mailing list maintained by the agency pursuant to Minn. Stat. § 15.0412, subd. 4 by depositing in the United States mail a copy of the Notice properly enveloped, with postage prepaid and that such service was effected as required therein. The Affidavit of the person mailing the Notice shall be notarized.

1 MCAR § 1.204 B. Order Adopting. (For recommended format, see Exhibit H-3.) ~~The original and three~~ Two copies of the Order Adopting the rule shall be submitted.

1. The Order Adopting shall recite that proper notice was given and that all persons were given the opportunity to submit comment on the proposed rule. ~~The Order Adopting the rule shall be separate from the Findings of Fact and conclusions.~~

1 MCAR § 1.205 A. ~~Failure to submit the required documents shall cause a submission to be incomplete and shall terminate the Attorney General's review period. The Attorney General shall inform the agency of the missing documents; upon submission of the required documents, the period for review shall be that for an initial submission.~~

~~B. The documents required to be submitted to the Attorney General in 1 MCAR §§1.202-204 shall be retained in the Attorney General's file, except for the original and two copies of the Rule as Adopted and Order Adopting the rule, and the record, including comments submitted to the agency.~~

1 MCAR § 1.206 A.1. Upon approval of a rule other than a temporary rule the Attorney General shall notify the agency in writing of the approval and shall file the rule promptly in the Office of the Secretary of State. The agency shall be responsible for effecting publication in the *State Register*. Effective July 1, 1981, the Attorney General shall file a rule with the Secretary of State only after the rule has been endorsed by the Revisor of Statutes.

B. Upon approval of a rule and completion of any additional duties with respect thereto, the Attorney General shall return to the agency an approved copy of the rule and the record, including comments submitted to the agency.

~~C.B.~~ [Relettered.]

~~D.C.~~2. The rule exceeds the statutory authority conferred or specifically required conditions of the authorizing statute have not been met.

5. The rule is unconstitutional, ~~arbitrary,~~ or unreasonable.

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Board of Dentistry

Adopted Rules Relating to Applications for Licensure, Fees, Licensure by Credentials, Auxiliary Personal Services, Advertising and Classification, and Reorganizing of Existing Rules

The rules proposed and published at *State Register*, Volume 4, Number 46, pp. 1798, May 19, 1980 (4 S.R. 1978) are adopted with the following amendments:

Rules as Adopted

7 MCAR § 3.002 Definitions.

- D. "Auxiliary" means a dental hygienist, registered dental assistant, assistant, and dental technician.
- O. "Person" includes an individual, corporation, partnership, association or any other legal entity.
- P. "Registered dental assistant" means an assistant registered by the Board pursuant to § 150A.06, subd. 2.a., of the Act.
- Q. "Registrant" means a registered dental assistant.
- R. "Registry" means the centralized recordkeeping service of the American Dental Association, Continuing Education Registry.
- S. "Sponsor" means an organization approved by the board pursuant to 7 MCAR § 3.052 to offer CDE courses.
- T. "Supervision" shall be defined in one of the following classifications:

7 MCAR § 3.004 Officers. The officers of the board shall consist of a president, a vice-president, and a secretary, as provided in § 150A.03, subd. 1, of the Act. Election of officers may be held at any regular or special meeting.

7 MCAR § 3.005 Fees.

B. Annual license or registration fees. Each dentist, dental hygienist and registered dental assistant shall submit with his annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

1. Dentist—\$38.00
2. Dental hygienist—\$15.00
3. Registered dental assistant—\$10.00

7 MCAR § 3.011 Applications to practice dentistry.

C. The applicant must furnish certification of having passed all parts of a national board examination as defined in 7 MCAR § 3.002 N.

E. 3. After successful completion of steps 1 and 2, the applicant must complete such pre-clinical and clinical testing procedures at the School of Dentistry, University of Minnesota, or its substantial equivalent, as the board ~~may~~ shall approve, to determine whether the applicant has the clinical proficiency in dentistry comparable to that of a student who has graduated from the University of Minnesota, School of Dentistry.

4. Only after successful completion of steps 1, 2, and 3 will the board certify the applicant's eligibility to take a national board examination as defined in 7 MCAR § 3.002 N.

5. Only upon completion of the first four steps may the applicant make application to the board to take the examination for licensure.

G. The applicant shall furnish a testimonial of good professional character from an authorized representative of the dental school from which the applicant graduated and a certification by the secretary of the Board of Dental Examiners of the state or Canadian Province in which he is licensed. Provided, however, the board may in its discretion and for good cause waive the certification of good professional character by an authorized representative of the dental school.

7 MCAR § 3.012 Application to practice dental hygiene.

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ADOPTED RULES

B. Applicants must furnish certification that they have passed the National Board Examination as defined in 7 MCAR § 3.002 N.

F. The applicant shall furnish evidence of good professional character satisfactory to the board and certification from the Board of Dental Examiners in the state or Canadian Province in which he is already licensed.

7 MCAR § 3.013 Application for registration as a registered dental assistant.

B. The applicant shall furnish a certified copy or its equivalent of a diploma or certificate of satisfactory completion of a training program approved by the Commission on Accreditation or other program which, in the judgment of the board, is equivalent. If the curriculum of the training program does not include training in the expanded duties specified in 7 MCAR § 3.032A, applicant must successfully complete a course in these functions which has been approved by the board.

7 MCAR § 3.014 Application for licensure by credentials.

Any person, who is already a licensed dentist or dental hygienist in another state or Canadian Province desiring to be licensed to practice dentistry or dental hygiene in Minnesota, must present to the board an application and credentials, as prescribed by the Act. The application shall conform to the following rules of the board:

A. The applicant shall complete an application and credential verification questionnaire on forms furnished by the board.

B. The applicant shall furnish satisfactory evidence of having graduated from a school of dentistry, or dental hygiene, whichever the case may be, which has been accredited by the Commission on Accreditation.

C. An applicant for licensure as a dentist must have been in active practice in another state or Canadian Province for at least three years immediately preceding application, United States governmental service may be included, and submit at least three references from other dentists. The application must include a physician's statement attesting to the applicant's physical and mental condition.

D. An applicant for licensure as a dental hygienist must have been in active practice in another state or Canadian Province for at least one year immediately preceding application, and must submit at least two character references from dentists and two references from practicing hygienists.

E. Each applicant must submit with the application a fee as prescribed in 7 MCAR § 3.005 C.

F. For identification purposes, the applicant shall furnish one notarized unmounted passport-type photograph, 3" x 3", taken not more than six (6) months before the date of application.

G. An applicant must appear before the board for a personal interview to determine the applicant's fitness to practice dentistry or dental hygiene pursuant to § 150A.06, subd. 4.

H. An applicant shall successfully complete an examination designed to test knowledge of Minnesota laws relating to the practice of dentistry and the rules of the board.

7 MCAR § 3.015 Requirements for all applicants.

A. Every applicant shall provide evidence of having fulfilled all the requirements of the Act.

C. Incomplete applications shall be returned to the applicant with the tendered fee, together with a statement setting forth the reason for such rejection.

D. Nothing contained in these rules shall be construed to limit the board's authority to seek from an applicant such other information pertinent to the character, education, and experience of the applicant insofar as it relates to the applicant's ability to practice as a licensee or registrant as the board may deem necessary in order to pass on the applicant's qualification.

7 MCAR § 3.016 Expiration of license and registration and renewal thereof.

Each dentist, dental hygienist and each registered dental assistant shall submit an application for renewal of his license or registration together with the necessary fee no later than December 31, of the year preceding that for which the license or registration renewal is requested. The application form shall provide a place for the renewal applicant's signature and shall solicit information to include but not be limited to the applicant's office address or addresses, the number of his license or registration certificate, whether such licensee or registrant has been engaged during the year preceding the year for which renewal is sought in the active practice of dentistry or dental hygiene or has worked as a registered dental assistant, and if so, whether within or without the state, and such other information which may be reasonably requested by the board.

7 MCAR §§ 3.017-3.020 [Reserved for future use.]

7 MCAR § 3.021 Written examination procedures: dentists, dental hygienists, and registered dental assistants.

F. Notes, textbooks or other information data shall not be brought to the examination rooms.

7 MCAR § 3.025 Scope of written examination, dental hygienists.

B. At the discretion of the board, any dental hygienist duly licensed to practice as such in another state which has and maintains laws regulating the practice of dental hygiene by dental hygienists, equivalent to this state's, who is of good professional character and is desirous of licensure in this state and presents a certificate from the examining board of the state in which the applicant is licensed so certifying, may be exempted from taking a National Board examination provided the applicant has been licensed for five or more years.

7 MCAR § 3.031 Assistants. Assistants may:

A. Retract a patient's cheek, tongue or other parts of tissue during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention; as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created or accumulated during the course of treatment being rendered by a licensed dentist during or after operative procedures by the dentist by use of vacuum devices, compressed air, mouthwash and water; ~~monitor a patient who has been inducted by a dentist into nitrous oxide-oxygen relative analgesia~~; provide any assistance, including the placement of articles and topical medication in a patient's oral cavity in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation as defined in the Act and who is then actually in a position to give personal supervision to the rendition of such assistance. In addition, assistants may aid dental hygienists and registered assistants in the performance of their duties as defined in 7 MCAR § 3.032 B. and 7 MCAR § 3.034.

7 MCAR § 3.032 Registered dental assistants.

A. 2. Take impressions for study casts and opposing casts.

4. Place and remove rubber dam.

6. Perform mechanical polishing to clinical crowns only and not to include any instrumentation. Prior examination for calculus and instrumentation must be done by the dentist or hygienist.

9. Place and remove periodontal packs.

11. Monitor a patient who has been inducted by a dentist into nitrous oxide-oxygen relative analgesia.

B. A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a registered assistant and is currently qualified in Minnesota in related health profession may, at the board's discretion, be permitted to take dental radiographs after successful completion of an approved course. Such permission shall not be granted until such dental assistant shall have filed with the board an application for permission, along with proof of successful completion of such course.

7 MCAR § 3.033 [Repealed.] (~~This deleted material is moved to 7 MCAR § 3.046B.~~)

7 MCAR § 3.034 Dental hygienists. Dental hygienists may perform:

~~G. Administer local anesthesia after successful completion of a course approved by the Board.~~

~~G.H.~~ Procedures A., B., C., D., and F. may be carried out under the general supervision of a dentist. Examination and diagnosis must be accomplished only by a dentist.

7 MCAR § 3.044 Names. Any name which incorporates the use of the name of a state, city or other political subdivision in whole or in part or which connotes unusual or superior dental ability, or which is likely to create a false or unjustified expectation of favorable results shall be in violation of § 150A.11, subd. 1, of the Act and Minn. Stat. § 319A.07.

NOTE: The amendment to this rule is effective July 1, 1981, the effective date of Minn. Stat. § 150A.11. Prior to that date, the text of the current rule will apply.

7 MCAR § 3.045 Professional advertising.

A. A person shall not, on behalf of himself, a partner, associate or any other dentist affiliated with him through a corporation or association, use or participate in the use of any form of public communication containing a false, fraudulent, misleading or deceptive statement or claim.

1. A false, fraudulent, misleading or deceptive statement or claim is one which:

a. Contains a misrepresentation of fact;

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ADOPTED RULES

- b. Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
- c. Is self-laudatory or is intended or is likely to create false or unjustified expectations of favorable results;
- d. Implies unusual or superior dental ability;
- e. Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived.

B. A person shall not compensate or give anything of value to a representative of the press, radio, television, or other communicative medium in anticipation of or in return for professional publicity unless the fact of compensation is made known in such publicity.

C. A person shall not directly or indirectly offer, give, receive, or agree to receive any fee or other consideration to or from a third party for referral of a patient in connection with the performance of professional services.

D. Fees may be advertised for routine services only.

1. A routine service is defined as one which is performed frequently in the dentist's practice; is usually provided at a set fee; is provided with little or no variance in technique; and includes all professionally recognized components within generally accepted standards. If the following routine dental services are advertised, they must adhere to these minimum standards (which are examples of the comprehensiveness required to satisfy the above definition):

a. Examination—a study by the dentists of all structures of the oral cavity, including the recording of the condition of all such structures and appropriate history thereof, including as a minimum the charting of caries, identification of periodontal disease and occlusal discrepancies, and the detection of oral abnormalities. If an examination fee is advertised, the same advertisement must include the following additional diagnostic procedures and their fees:

(1) Radiographs (x-rays)—x-rays of the oral structures to be used for purposes of diagnosis and which included either: 1) a panograph and four bitewings, or 2) intraoral full mouth review utilizing a minimum of fourteen periapical and four bitewing films. Any films must be adequate to provide a complete radiographic study.

(2) Diagnosis—a written opinion of items found in an examination.

(3) Treatment planning—a written itemized treatment recommendation and written itemized fee estimate provided to the patient.

b. Denture—either a full upper or full lower replacement of the natural dentition with artificial teeth. If the service advertised is for a denture which is partially prefabricated or is intended to be used as an emergency or temporary denture, such fact shall be fully set forth in the text of the advertisement. The fee shall include a reasonable period for readjustment.

c. Prophylaxis—the removal of calculus (tarter) and stains from the exposed and unexposed surfaces of the teeth by scaling and polishing.

d. Extractions—this service is for the removal of non-impacted teeth and includes necessary x-rays, anesthesia, preoperative and post-operative care.

2. At the request of the board, the licensee, office or professional corporation shall bear the burden of proving that any advertised services are, in fact, "routine dental services" as defined.

3. Related services which may be required in conjunction with the advertised services, and for which additional fees will be charged, must be identified as such in the advertisement.

E. Advertising a range of fees for a given service is prohibited.

F. Advertised fees must be honored for those seeking the advertised services during the entire time period stated in the advertisement, whether or not the services are actually rendered in that time. If no time period is stated, the advertised fees shall be so honored for 30 days or until the next scheduled publication, whichever is later.

G. Any advertising must include the corporation, partnership, or individual dentist's (dentists') name and address.

H. Advertisements shall not:

1. Include descriptive words or phrases which are qualitative representations or comparative claims such as, but not limited to: painless, high quality, low prices and reasonable;

2. Include testimonials and endorsements; including but not limited to character references, statements of benefits from dental services received, or expressions of appreciation for dental services;

3. Include the use of celebrities;

4. Use dramatization or graphic illustrations to imply patient satisfaction;

5. Reveal a patient's identity or personally identifiable facts, data, or information obtained in a professional capacity;
6. After one year, include the name of any dentists formerly practicing at or associated with any advertised location;
7. Indicate or imply affiliation with any organization other than the dental practice being advertised.

I. Advertising of a practice in a dental specialty:

1. The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

Endodontics (Endodontist);
Oral and Maxillofacial Surgery (Oral Surgeon/Oral and Maxillofacial Surgeon);
Oral Pathology (Oral Pathologist);
Orthodontics (Orthodontist);
Pedodontics (Pedodontist);
Periodontics (Periodontist);
Prothodontics (Prosthodontist);
Public Health

a. Only licensed dentists who have successfully completed a post-doctoral course approved by the Commission on Accreditation in one of the specialty areas, or who announced a limitation of practice prior to 1967, or who have been approved by one of the following specialty examining boards, may announce specialty practice and may advertise as a specialist: American Board of Dental Public Health, American Board of Endodontics, American Board of Oral Surgery, American Board of Oral Pathology, American Board of Orthodontics, American Board of Pedodontics, American Board of Periodontology, and American Board of Prosthodontics.

b. 7 MCAR § 3.045 I.a. does not prohibit a dentist who does not meet the above education or experience criteria from restricting his practice to one or more specific areas of dentistry. Such individuals may not use the terms specialist, specialty, specializing, or limited to. The advertising must state that the services are being provided by a general dentist.

J. Failing to respond within 30 days to written communications from the Board of Dentistry or failure to make available to the board any relevant records with respect to an inquiry or complaint about the licensee's advertising practices shall constitute a violation of § 150A.08, subd. 1(5) of the Act and 7 MCAR § 3.045. The period of 30 days shall commence on the date when such communication was sent from the board by certified mail with return receipt requested to the address appearing in the last registration.

7 MCAR § 3.063 Corporation names. After July 1, 1981, the names of professional corporations shall be governed by Minn. Stat. § 319A.07 and 7 MCAR § 3.044.

NOTE: See footnote appended to 7 MCAR § 3.044.

Housing Finance Agency

Adopted Rules for Income Limits for the Home Improvement Loan Program

The rules proposed and published at *State Register*, Volume 5, Number 5, pp. 159-161, August 4, 1980 (5 S.R. 159) are adopted with the following amendments:

Rules as Adopted

12 MCAR § 3.002 O. "Persons and families of low and moderate income" means:

4. with respect to Home Improvement Loans pursuant to Chapter Six of these rules, those persons and families whose Adjusted Income does not exceed \$18,000 or such lower amount as the agency may establish to assure that the interest on obligations of the agency will be exempt from federal income taxation.

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TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota

Tax Court

COUNTY OF RAMSEY

REGULAR DIVISION

Biaconi Construction Company,
a Minnesota Corporation,

In the matter of the appeal from the Commissioner's Order dated June 24, 1977 relating to Sales & Use Tax for the periods 1/1/69 thru 12/31/69, and 1/1/70 thru 12/31/70. Account No. 8248128.

Appellant,

vs.

The Commissioner of Revenue,

Amount in dispute: \$4,546.50

Appellee.

Docket No. 2461
Order dated February 27, 1981

The above matter was submitted to the Honorable Carl A. Jensen, Judge of the Minnesota Tax Court, on the basis of a Stipulation of Facts and briefs filed by the parties.

Richard D. Bunin of Edward M. Cohen & Associates, appeared for appellants.

Thomas K. Overton, Special Assistant Attorney General, appeared for appellee.

Both appearances were made only by the filing of briefs.

Issue

The issue is whether the word "road" as used in Minn. Stat. § 297A.25, subd. 1(h) includes both public and private roads or is limited to public roads.

Decision

The word "road" as used in Minn. Stat. § 297A.25, subd. 1(h) is interpreted to mean only public roads and the Order of the Commissioner assessing use taxes on materials used in private roads is affirmed.

From all the files, records and proceedings herein and from a Stipulation of Facts entered into by and between the parties hereto, the Court finds as follows:

Findings of Fact

1. Appellant is a construction company which constructs storm sewers.
2. In 1969 and 1970, Appellant was engaged in constructing a storm sewer located in a road on privately owned property.
3. Appellant purchased the storm sewer components for use in the construction and gave to the seller an exemption certificate and Appellant paid no sales or use tax thereon.
4. The road in which the storm sewer was constructed is a privately owned road and is not included in the exemption contained in Minn. Stat. § 297A.25, subd. 1(h) which exempts materials used in "road building".
5. The Department of Revenue audited Appellant and on August 7, 1973 the department submitted to Appellant schedules of additional taxes which the department proposed to assess.
6. Counsel for the taxpayer filed a protest dated August 20, 1973. By letter dated August 27, 1973, the department asked if a hearing was desired and no response was received.
7. On September 12, 1973 the matter was reviewed by the department and it was recommended that the proposed assessment be ordered.
8. A use tax including penalty and interest upon the purchase and use of the storm sewer components was assessed by Order dated September 21, 1973. No appeal was filed.
9. The department filed a Return with this Court on August 11, 1977 which included a copy of a "Memo to EMC:" from "REB" dated February 6, 1974. This was apparently a memo to Edward M. Cohen of Edward M. Cohen & Associates. The memo discusses the Order dated September 21, 1973 assessing the tax. The memo indicates that the writer of the memo had discussed the matter with Donald Harens an employee of the department. Among other things the memo stated the following:

“He also informed me, and I assume this is within your knowledge for purposes of verifying same, that in the District Court the taxpayer has the right to raise the same issues that he could have had the taxpayer appealed originally to the tax court.”

“Regarding the penalty, Harens stated that we could write a letter requesting abatement of same because the taxpayer was confused and felt that his vendor was going to pay the tax. However, abatement will not be considered until the tax itself is paid.”

“I have not had an opportunity to review the merits of our claim but I feel that the first question is to verify the representation that we do have the right in the District Court to raise our claim on the merits.”

10. On November 7, 1975 the Commissioner of Revenue pursuant to Minn. Stat. § 297A.33, subd. 6 issued his warrant to the county sheriff for the taxes assessed.

11. The sheriff levied upon a portion of contract proceeds from a contract with the City of Fridley and remitted the amount owed to the Department of Revenue.

12. Appellant filed a claim for refund of the amount remitted. The claim was denied and this appeal taken.

13. This Court finds that the exemption from sales tax for materials used in “road building” contained in Minn. Stat. § 297A.25, subd. 1(h) applies only to materials used in public roads and does not apply to materials used in building private roads.

14. This Court finds that the appellant is not entitled to abatement of either the tax levied or the penalty levied.

Conclusions of Law

1. Minn. Stat. § 297A.25, subd. 1(h) exempting from sales tax materials used in “road building” applies only to materials used in public roads and does not apply to roads on private property.

2. The application for refund is denied.

Order for Judgment

The Order of the Commissioner of Revenue denying the application for refund is hereby affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

MINNESOTA TAX COURT
Carl A. Jensen, Judge

Memorandum

One of the issues raised by the appellant was whether or not the exemption from sales tax for materials used in road building as contained in Minn. Stat. § 297A.25, subd. 1(h) applies to materials used in the construction of private roads. After reviewing all of the materials contained in this proceeding, the Court concludes that “road” as used in this section means only public roads and does not apply to roads on privately owned property. Most of the definitions of road as used in this context appear to define road as meaning a public road and not a private road or driveway.

The Minnesota Supreme Court in *Camping and Education Foundation v. State*, 282 Minn. 245, 250, 164 N.W. 2d 369, 372 (1969) stated the following:

“One of the rules that is well established is that taxation is the rule and exemption is an exception in derogation of equal rights. Therefore, there is a presumption that all property is taxable. In consequence, the burden of proof is on the one seeking the exemption to establish that he is entitled to the exemption.”

“Another long established rule is that exemption provisions are to be strictly construed.”

In the Appellant’s Notice of Appeal a claim was made that the manner of collection of the tax was in violation of Minnesota Statutes and of Appellant’s rights to due process of law under both the State and Federal Constitutions. The Appellant did not argue this point in its brief so we will not discuss it further except to say that it does appear that the Appellant was given adequate notices of the intention to assess the taxes before the actual order of assessment was issued.

SUPREME COURT

Decisions Filed Friday, March 6, 1981

Compiled by John McCarthy, Clerk

50759/333 Robert P. Schwinn, Conservator of the Estate of Luellia S. Barnes, v. Robert T. Griffith. Carver County.

Auction sales of real estate are within the statute of frauds.

Under Minn. Stat. § 513.05 (1980), the statute of frauds governing sales of real estate, there must be a memorandum expressing the terms of sale subscribed by the vendor. In addition, if the memorandum is in the form of an offer, a written acceptance is required to satisfy the statute. If the memorandum evidences a completed oral agreement, the vendee must have accepted delivery of the writing to satisfy the statute. *Western Land Ass'n v. Banks*, 80 Minn. 317, 83 N.W. 192 (1900), is overruled to the extent that it holds that a vendor's signature alone is sufficient to satisfy the statute of frauds.

Under *Restatement of Contracts* § 212 (1932), an auctioneer acts as the agent for the buyer for the purpose of binding him to the contract of sale.

Reversed. Sheran, C. J.

50830/Sp. State of Minnesota, by Warren Spannaus, its Attorney General, v. Northwestern Bell Telephone Company, Appellant. Clay County.

The Minnesota Public Service Commission has jurisdiction under Minn. Stat. ch. 237 (1980) to regulate rates charged Minnesota residents by a telephone company for services received by such residents through telephone exchanges located in an adjoining state.

An action commenced by the attorney general to obtain restitution of overcharges made prior to issuance of an order by the Public Service Commission authorizing increased rates is not barred by Minn. Stat. §§ 237.25 and 237.26 (1980).

There is no statutory impediment to requiring a telephone company to refund to subscribers the amount by which rates charged them had been increased prior to issuance of an order by the Public Service Commission approving the increased rates.

A telephone company which filed a schedule of proposed rate increases but did not file a statement informing the Public Service Commission when such rates would go into effect was not authorized by Minn. Stat. § 237.075, subd. 1 (1980) to put them into effect 90 days after the filing of the schedule.

Affirmed. Otis, J.

50700/Sp. State of Minnesota v. Robert E. Scott, Appellant. Hennepin County.

Trial court did not clearly abuse its discretion in admitting, at defendant's trial on charges of criminal sexual conduct in the first degree and soliciting or inducing another to practice prostitution, evidence of defendant's commission of nearly identical prior crimes against a different victim 2 years earlier.

Trial court did not violate Minn. Stat. § 609.035 (1978) in sentencing defendant to consecutive prison terms for offense of criminal sexual conduct in the first degree and offense of soliciting or inducing another to practice prostitution.

Evidence of defendant's disposition for violent crimes was sufficient to justify finding by trial court that defendant is a "dangerous offender" under the Dangerous Offender Act.

Affirmed. Yetka, J.

51259/Sp. Edward C. Brown, Relator, v. Port of Sunnyside Club, Inc., Commissioner of Economic Security. Department of Economic Security.

When the evidence shows that relator's employment was terminated involuntarily and the Commissioner of the Department of Economic Security's contrary finding of a voluntary termination lacks evidentiary support, the commissioner's decision must be reversed.

Reversed. Yetka, J.

51686/Sp. Nancy L. Toomey, a Minor Child, by Violet Burton, her Mother and Natural Guardian, and Violet Burton, Individually, Appellants, v. Brian Krone, Defendant, Illinois Farmers Insurance Company. Anoka County.

An automobile insurance policy exclusion which precludes third-party liability coverage of a relative who is a resident of the same household, but owns his own vehicle, is not invalid.

Affirmed. Scott, J.

Decision Filed Wednesday, February 25, 1981

81-15/Sp. State of Minnesota, County of Hennepin, v. Kenneth Bellanger, Appellant. Hennepin County.

In a criminal case the trial court should not depart from the "presumptive sentence" established by the Sentencing Guidelines, unless it determines that mitigating or aggravating factors are present in the particular matter before it and that these circumstances are "substantial or compelling circumstances" justifying departure.

Sentence reduced. Sheran, C. J.

STATE CONTRACTS

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

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

Department of Economic Security Vocational Rehabilitation Division

Notice of Request for Proposals for Operation of An Interpreter Referral Service

The Minnesota Department of Economic Security, Division of Vocational Rehabilitation (DVR) is seeking proposals which will implement the Interpreter Referral Service provisions of the Hearing Impaired Services Act (HISA), Minn. Stat. § 256C.21-27 (1980). In addition to providing interpreter referral services statewide, the Interpreter Referral Service will provide technical assistance to Regional Service Centers for the Hearing Impaired where they are operational.

Additional specific information is available in the request for proposal. The division has estimated the cost of this service at \$64,500 for twelve (12) months. Responses to this announcement must be received in the Administrative Office of DVR by 4:30 p.m. April 15, 1981 to be considered.

Request for proposal may be obtained by contacting:

Thomas L. Macy, Rehabilitation Specialist
Division of Vocational Rehabilitation
Third Floor Space Center
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: (612) 296-7869

Housing Finance Agency

Notice of Request for Proposals for Housing Inspections

The Minnesota Housing Finance Agency intends to engage the services of a single family housing inspector to make home improvement inspections throughout the state. The inspector must have his own automobile and be able to travel throughout all regions of the state. Travel expenses will be allowed in accordance with state requirements.

The number of inspections to be made are 250. All inspections must be completed by October 1, 1981. It is anticipated that approximately 50% of the inspections will be in Regions other than the 7 County Metro Area.

Proposals must be in writing and received by the Agency no later than NOON on April 10th, 1981.

Proposals should be addressed to Harold A. Prust, Manager, Technical Services, Minnesota Housing Finance Agency, 333 Sibley Street, St. Paul, Minnesota 55101. If there are questions, please call 612/296-9818.

STATE CONTRACTS

Metropolitan Council of the Twin Cities Area

Request for Proposals for Environmental Impact Statement (EIS) for Sludge and Solid Waste Landfill Siting Process

The Metropolitan Council solicits a proposal for entering into a contract for the performance of preparing EISs on the candidate sites for landfilling sludge and solid waste and land-spreading sludge. The proposal should be submitted in 10 copies and mailed to the Metropolitan Council, Suite 300 Metro Square Bldg., St. Paul, Minn. 55101, Attention: Mr. Jack Frost, Contract Manager.

The council, by this RFP, does not promise to accept the lowest, or any other, proposal and specifically reserves the right to reject any or all proposals, to waive any formal proposal requirements, to investigate the qualifications and experience of any proposer, to reject any provisions in any proposal, to obtain new proposals, or to proceed to do the work otherwise. All proposals received in the council office no later than 4 p.m. on March 25, 1981 will be considered by the council; and in the event that a proposal is accepted, the council will notify the successful proposer in writing within 45 days following its consideration of the proposal.

Requests for copies of the RFP should be directed to Mr. James Frost at (612) 291-6519.

Minnesota State Retirement System

Notice of Availability of Actuarial Consultant Contract for the Two Year Period Ending June 30, 1983

The Minnesota State Retirement System intends to engage the services of an "approved actuary" as defined in Minn. Stat. § 352.01, subd. 15, to perform the actuarial valuations required by Minn. Stat. ch. 356; to prepare and submit the reports required therein; to provide consulting and advisory services to the management on technical, policy or administrative problems and to provide actuarial cost estimates of plan amendments as requested.

Estimated Cost: \$85,000-\$95,000

Contact Person: Paul L. Groschen, 529 Jackson St., St. Paul, Minnesota 55101, Telephone (612) 296-2761

Final submission date: April 17, 1981

Department of Natural Resources Waters Division Dam Safety Unit

Notice of Request for Proposals for Contractual Services for 1981 Dam Safety Inspections in the State of Minnesota under the National Dam Safety Act

Notice is hereby given to request proposals for engineering consultant contract services for the purposes of inspecting two "High Hazard" dams in Minnesota under the state and federal dam safety program.

The engineering consultant contractor will be required to provide a systematic inspection, evaluation and report on each of the (2) High Hazard dams listed below and selected for inspection in accordance with the Scope of Work defined in the state contract with the U.S. Corps of Engineers.

1. Lloyde Haxton (Rollingstone, Winona County)
2. Pleasant Valley Site No. 6 (Pleasant Valley Creek, Winona County)

All applicants must also file Form 255 and related submittals with the:

Department of Army
St. Paul District, U.S. Corps of Engineers
1135 U.S. Post Office & Custom House
St. Paul, Minnesota 55101

Contact Persons:

James F. Cooper
or Craig Regalia
Minnesota Department of Natural Resources
Division of Waters, Dam Safety Section
Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Phone (612) 296-0510
(612) 296-0525

Estimated cost: Not to exceed \$8,000 per dam inspection.

Submission deadline: 4:30 p.m., April 3, 1981.

Interested persons may submit proposal to the above state contact persons.

State Planning Agency Developmental Disabilities Planning Office

Notice of Request for Proposals for Demonstration of Model Projects of Respite Care Services

The Developmental Disabilities Planning Office announces that it is seeking proposals from eligible public or private/nonprofit organizations with the interest and capacity to undertake the following task:

To provide respite care services for persons having a developmental disability with the financial support of a grant from the Developmental Disabilities Office of the State Planning Agency.

Funding for these projects is for a maximum of \$150,000.00. The agency anticipates funding up to ten (10) projects for a one year period. Individual project grants will not exceed \$25,000.00. Organizations receiving grants are to begin activity October 1, 1981.

The Request for Proposal guidelines to be used in the preparation of an application are available upon written request from the address listed below. Deadline for the receipt of applications is April 30, 1981 (whether post-marked or hand-carried). To obtain a Request for Proposal packet, please write to:

Respite Care RFP, Lew Miller
Developmental Disabilities Planning Office
State Planning Agency
200 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

State Planning Agency Developmental Disabilities Planning Office

Notice of Request for Proposals for Regional Coordination, Technical Assistance, Information Projects Related to People with Developmental Disabilities

The Developmental Disabilities Planning Office announces that it is seeking proposals from Regional Development Commissions which had a Developmental Disabilities program in operation on October 1, 1980 with the interest and capacity to undertake the following task:

To conduct technical assistance, public information and coordination activities which whenever possible reflect regional concerns about the *Welsch vs. Noot Consent Decree* with the financial support of a grant from the Developmental Disabilities Office of the State Planning Agency.

Funding for these projects is for a maximum of \$251,290.00. Individual projects will be funded at the same level as the program year which began October 1, 1980. Funding will be provided for one year. Subsequent funding is contingent upon selection of regional technical assistance, information and coordination as a priority by the Governor's Planning Council on

STATE CONTRACTS

Developmental Disabilities; and successful performance relative to the work program established by the grant agreement as well as the availability of federal funds. Organizations receiving grants are to begin activity October 1, 1981.

The Request for Proposal guidelines to be used in the preparation of an application are available upon written request from the address listed below. Deadline for the receipt of applications is April 30, 1981 (whether post-marked or hand-carried). To obtain a Request for Proposal packet, please write to:

Regional Coordination RFP, RoseAnn Faber
Development Disabilities Planning Office
State Planning Agency
200 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

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

Notice of Meeting

Minnesota Comprehensive Health Association
Finance Committee

Wednesday, April 8, 1981
1:30 p.m.

NWNL Reinsurance Company
100 North Seventh Street
Minneapolis, MN 55403

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may also be obtained by telephone from the Life and Health Section, telephone (612) 296-2202.

Minnesota Board on Aging

Notice of Procedures for Public Hearings

Notice is hereby given that the Minnesota Board on Aging will utilize the contested case procedures of Minn. Stat. §§ 15.041-15.052 (1980) and 9 MCAR §§ 2.201-2.299 to meet the requirements set out in 45 C.F.R. § 1321.51 for the provision of hearings to:

“(1) Any area agency when the State agency proposes to—

- (i) Disapprove the area plan or plan amendment submitted by the area agency as specified in § 1321.83(b);
- (ii) Withdraw the area agency’s designation as provided in § 1321.85;

(2) Any applicant for designation as a planning and service area under § 1321.53 whose application is denied;

(3) Any nutrition project specified in § 1321.143(b)(1) which the area agency proposes to defund; . . .”

Any such agency or organization desiring a hearing must file a request pursuant to 45 C.F.R. § 1321.51(b).

A notice of intent to utilize these procedures was published in the *State Register* on 2/2/81. Written comments were invited by 3/5/81. No comments were received and the board will, therefore, utilize the contested case procedures as stated in the above notice. Minnesota Board on Aging, Suite 204, Metro Square Building, St. Paul, Minnesota 55101.

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Proposal of Rules Requiring Installation Permits for New or Modified Airports to Ensure Compliance with State Noise Standards

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information or opinions from sources outside the agency in preparing to promulgate new rules requiring the issuance of an installation permit prior to the commencement of construction of a new airport or commencement of modification of an existing airport. Such rules would prohibit issuance of a permit unless the new or modified airport will comply with State Noise Standards set forth in rule NPC 2, (6 MCAR § 4.2002). The promulgation of these rules is authorized by Minn. Stat. § 116.07, subd. 4 (1980), which permits the agency to adopt regulations and standards having the force and effect of law for the prevention, abatement or control of noise pollution. The statute provides that such regulations and standards may relate to any matter relevant to the prevention, abatement or control of noise pollution.

The agency requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written or oral statements of a technical nature should be directed to Dave Kelso at the address and telephone number listed below. Inquiries of a non-technical nature or which relate to the rulemaking process should be directed to Marge Borchard at the address and telephone number listed below. Oral comments and inquiries will be accepted by Mr. Kelso and Ms. Borchard during regular business hours over the telephone and in person at the agency offices, as follows:

Dave Kelso
Division of Air Quality
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, MN 55113
Telephone: (612) 296-7340

Marge Borchard
Public Information Office
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, MN 55113
Telephone: (612) 296-7284

All statements of information and comment shall be accepted until Monday, April 6, 1981. Any written material received by the agency shall become a part of the record in the event that the rules are promulgated.

Dated this 6th day of March 1981.

Louis J. Breimhurst
Executive Director

Department of Public Welfare Support Services Bureau

Notice of Intent To Solicit Outside Opinion Concerning A Proposed Rule Relating to the Implementation of Minn. Stat. § 626.557 (1980), Reporting of Maltreatment of Vulnerable Adults

Notice is hereby given that the Minnesota Department of Public Welfare is drafting a proposed rule 12 MCAR § 2.010 (Reporting and Investigating Maltreatment of Vulnerable Adults in Facilities Licensed by the Minnesota Department of Public Welfare).

This rule will govern the reporting of suspected abuse and neglect of vulnerable adults in residential and nonresidential facilities licensed by the Minnesota Department of Public Welfare pursuant to Minn. Stat. §§ 245.781 through 245.812, the investigation and coordination of abuse and neglect reports, the development of standards for facility and individual abuse prevention plans and the enforcement of requirements through appropriate sanctions and/or penalties.

Authority for this rule is contained in Minn. Stat. § 626.557, subd. 16(b), (1980).

OFFICIAL NOTICES

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

John Sauer
Division of Licensing
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2852.

All statements of information and comment must be received by April 17, 1981.

Any written material received by the department shall become part of the hearing record.

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

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

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.

Legislative Reference Library
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