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# STATE REGISTER

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\*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.

\*\*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.

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#### 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:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
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**PROPOSED RULES**

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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.

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## Department of Revenue Property Equalization Division

### Notice of Withdrawal of Proposed Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

The above captioned rules were published in the *State Register* of Monday, April 6, 1981 (5 S.R. 1572-1582) together with a Notice of Intent to Adopt Rules without a Public Hearing.

The agency has subsequently received more than seven requests for a public hearing on the proposed rules. All the requests were submitted timely within the 30 day comment period.

Because of the apparent controversial nature of the proposed rules, the agency has decided to withdraw the proposed rules and incorporate them into a larger body of rules which will be heard at public hearing at a later date. This hearing will proceed according to the provisions of Minnesota Statutes, § 15.0412 subdivision 4-4f.

All persons registered with the agency will receive notice of hearing as required. This notice, together with the rules themselves, will also be published in the *State Register*.

**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.

# 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.

## Department of Public Welfare Mental Health Bureau

### Adopted Rules Governing Program and Services to Mentally Retarded Persons

The proposed rules 12 MCAR § 2.018 and 12 MCAR § 2.034 published at *State Register*, Volume 5, Number 11, p. 411, September 15, 1980 (5 S.R. 411) are adopted with the following amendments:

#### Amendments as Adopted

12 MCAR § 2.018 Standards for the provision of semi-independent living services to people who are mentally retarded.

A. 1. Minn. Stat. § 252.28 (1978), ~~and~~ as amended, ~~(1980)~~ Laws of 1980, ch. 612, provide for the determination of need, location, and program of public and private residential and day care facilities and services for mentally retarded children and adults. This statute further provides that the commissioner shall establish uniform rules, regulations, and program standards for each type of residential and day facility or service for more than four retarded persons.

A. 2. Minn. Stat. §§ 245.781-245.814, ~~812~~, Public Welfare Licensing Act, provide for the development and promulgation of rules and regulations for the operation and maintenance of day care and residential facilities and agencies, for granting, suspending, and revoking licenses and provisional licenses. It also provides that no individual, corporation, partnership, voluntary association, or other organization may operate a day care or residential facility or agency unless licensed to do so by the commissioner.

B.2.a. This rule applies to any person, organization or association engaged in the operation and provision of semi-independent living services (SILS) to adults who are or may be mentally retarded, as provided and defined in 12 MCAR § 2.185 A.4.~~h-k~~ and ~~i-m~~. This rule sets forth the requirements for any individual, organization, or association providing SILS to more than four mentally retarded adults to be licensed pursuant to Minn. Stat. § 252.28, and Minn. Stat. §§ 245.781-245.814, ~~.812~~, the Public Welfare Licensing Act.

B.3.c. Applicants shall submit such materials and information as may be required by the commissioner to make proper determination of the nature and adequacy of the services to be provided. Application for license shall not be considered complete until all required documents have been received by the commissioner in accordance with this rule.

B.3.f. ~~If, in the licensing procedure or enforcement of these standards, the commissioner finds that to require a provider to comply strictly with one or more provisions of this rule will result in undue hardship, and if the SILS provider is in substantial compliance with the standards of this rule, a provisional license not to exceed one year may be granted to allow the SILS provider reasonable time to conform with these standards.~~ Provisional license shall be granted by the commissioner under the terms of Minn. Stat. § 245.783, subd. 3.

B.3.g. When a specific requirement cannot be met or an innovative alternative is desirable, a ~~waiver~~ variance must be requested in writing. The ~~waiver~~ variance request shall state (a) the reason the current requirement cannot be met, (b) the proposed alternative, and (c) the date the alternative or requirement shall be met, not to exceed one year. No ~~waiver~~ variance shall be granted that would ~~affect~~ threaten the health, safety or rights of clients.

C. 2. "Client." Adults who need more than ~~room and board~~, food and lodging, but less than 24-hour per day program of service and supervision, receiving services as provided in this rule.

C. 4. "County board." That body of duly elected officials responsible for the governance of its county under the authority of Minn. Stat. §§ ~~275.02-275.55~~, 375.02-375.55. When a human service board has been established under Minn. Stat. §§ 402.02-402.10, it shall be considered to be the county board, for purposes of this rule.

C. 7. "Interdisciplinary team." A team consisting, at a minimum, of the client, the client's legal guardian (if any), local social service agency representative and the program director, or SILS staff member. Other persons relevant to a particular client's needs may be included. The interdisciplinary team is responsible for the development and evaluation of the client's individual program plan and determination of need for semi-independent living services.

C. 9. "Local social service agency (LSSA)." A local agency designated and authorized by the county board ~~of~~ or human service board, to be responsible for providing social services. Social services include the case management and referral of applicants for semi-independent living services.

D.1.h. The requirement that each client must have a current medical and dental examination.

D.1.i. Waiting lists and selection priorities.

D.2.a.(1) A ~~standardized~~ behavioral assessment, conducted by SILS staff at least annually, shall objectively describe the behavioral status of the client. The assessment instrument must be acceptable to the LSSA.

D. 3. Individual program plan (IPP). The provider shall have a letter of referral from the responsible local social service agency, including a copy of the individual service plan, for each client.

D.3.a.(3) Training in money management ~~of personal finances~~.

D.3.a.(7) Specific training plan concerning the development ~~of~~ of more appropriate behaviors for clients displaying inappropriate behaviors.

D.3.a.(9) Training in apartment or living environment maintenance, when indicated.

D.3.a.(10) Training in use of community resources including but not limited to police, fire, hospital emergency resources.

D.3.a.(11) Training in rights and responsibilities of community living.

D.3.c. The IPP shall describe the services to be provided, and how they will be obtained.

E. 3. The provider ~~may~~ shall employ ~~one or more~~ a program directors, and may employ more than one to assist in program direction.

E.4.b. The program director shall insure that all clients ~~know how~~ have demonstrated the ability to contact a staff person for assistance in an emergency.

E.5.e.(4) ~~Records~~ A copy of the records of the deceased client shall be transmitted to the local social service agency.

E.6.a.(8) The client's IPP and quarterly reviews.

E.6.a.(9) Any physician's and dentist's orders within the past two years, including special instructions for self-medication, care and treatment.

E.6.b.(1) All information contained in the client's record shall be handled in a manner consistent with the Government Data Practices Act, Minn. Stat. §§ 15.162-15.174 ~~.1699~~. The client shall have access to his record upon request, with accommodations for interpretation that meets his needs.

#### 12 MCAR § 2.034 Standards for the operation of residential programs and services for persons who are mentally retarded.

A.1.a. This rule governs the operation of any ~~facility or service~~ residential program engaged in, or seeking to engage in, the provision of residential or domiciliary service for mentally retarded individuals, and it sets forth the requirements necessary for such a residence to be licensed.

A.4.c. Applicants must have, or have applied for, a Supervised Living Facility license from the State Department of Health Minn. Rule MHD 391-401; and, in the case of a commissioner approved extension of the residential program for family homes of four or fewer residents, a foster home license or certification from the Department of Public Welfare.

A.4.e. ~~If, in the licensing procedure or enforcement of these rules, the Commissioner finds that to require a residential program to comply strictly with one or more provisions of these rules will result in undue hardship, and if the residential program is in substantial compliance with the intent and purpose of these rules, a provisional license may be granted to allow~~

**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.

## ADOPTED RULES

~~reasonable time to conform to these rules.~~ Provisional license shall be granted by the commissioner under terms of Minn. Stat. § 245.783, subd. 3.

A.4.f. A residential program may request in writing a ~~waiver~~ variance of a specific provision of the rule. The request for a ~~waiver~~ variance must cite the provision of the rule in question, reasons for requesting the ~~waiver~~ variance, the period of time not to exceed one year the licensee wishes to have the provision ~~waived~~ varied and the equivalent measures planned for assuring that programmatic needs of residents are met. ~~Waivers~~ Variances granted by the commissioner shall specify in writing the time limitation and required equivalent measures to be taken to assure that programmatic needs are met. ~~Waivers~~ Variances denied by the commissioner shall specify in writing the reasons for the denial. No ~~waiver~~ variance shall be granted that would ~~adversely affect~~ threaten the health, safety or rights of residents.

A.6.d. Interdisciplinary team—~~A general term used in this rule to refer to persons representing professions, disciplines, or service areas as are relevant in each particular case, and including parents and the referring agency (see below). The interdisciplinary team shall evaluate the resident's needs, plan an individualized program to meet identified needs, and periodically review the resident's response to his program.~~ A team consisting, at a minimum, of the resident, the resident's legal guardian (if any), local social service agency representative and the program director or program staff member. Other persons relevant to a particular resident's needs may be included. The interdisciplinary team is responsible for the development and evaluation of the resident's individual program plan and determination of need for the residential program.

A.6.q. Program—The general term used in this rule to refer to all people, events, and environments that lead to a purposeful outcome (goal or objective) for the individual resident. These ~~services~~ programs include, but are not limited to, training and maintenance of the individual; the design, furnishing, and use of space; staff and staffing patterns; and professional and volunteer services.

A.6.u. Residential program—A general term used in this rule to refer to the program of services to residents of a Supervised Living Facility or of a licensed or certified foster home approved by the commissioner as an extension of the residential program which has an administrative organization and/or structure for the purpose of providing care, food, lodging, training, supervision, habilitation and treatment as needed for more than four mentally retarded individuals on a 24-hour per day basis. Residential programs may also be known as, but are not limited to group homes, child-caring institutions, boarding-care homes, nursing homes, state hospitals, public institutions, and regional centers.

A.6.v. Restraint—Any physical device or chemical substance that limits the free and normal movement of body or limbs. Chemical substances administered for the purpose of controlling maladaptive behavior are deemed restraints. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered restraints.

A.6.z. Supervised Living Facility—~~A general term used in this rule to refer to the facility in which the health, treatment, comfort, safety and well-being of persons is provided.~~ licensed by Minnesota Health Department, in accordance with Minn. Stat. § 144.56 (1971).

B.3.i.(4) ~~Physical~~ Restraint shall be employed only when absolutely necessary to protect the resident from injury to himself or to others; and restraint and seclusion shall not be employed as punishment, for the convenience of staff, or as a substitute for program.

B.4.b.(2)(b) Dental care practices should ~~encourage~~ include the use of newer equipment, such as electric toothbrushes and ~~water picks, as described~~ oral water irrigators or lavages as prescribed.

C.2.a.(3)(a) Educational assessment. All school-age children shall be assessed annually in accordance with guidelines of a properly designated school authority, in order to determine eligibility for public school class. School-age is defined as four years to 21 years for mentally retarded children and shall not extend beyond secondary school.

C.2.a.(3)~~(b)~~ Self-care skills.

C.2.a.(3)~~(c)~~ Economic skills.

C.2.a.(3)~~(d)~~ Language development.

C.2.a.(3)~~(e)~~ Number and time concepts.

C.2.a.(3)~~(f)~~ Domestic occupation.

C.2.a.(3)~~(g)~~ Vocational skills.

C.2.a.(3)~~(h)~~ Maladaptive behavior and emotional disturbances.

\*A residential program shall be in substantial compliance with these provisions when the American Association of Mental Deficiency Adaptive Behavior Scale, or the Minnesota Developmental Programming System (MDPS), is used for behavioral assessment.



C.2.b.(2) Physical assessment for adults shall be performed at least annually and shall include, but not necessarily be limited to:

- (a) Physical examination.
- (b) Blood count.
- (c) Urinalysis.
- ~~(d) Determination of freedom from tuberculosis.~~

C.3. Program and treatment plan. Residential program staff shall participate with an interdisciplinary team including ~~Developmental Achievement Center~~ daytime developmental staff, in the formulation of an individualized program and treatment plan for each resident. Facility staff shall be responsible for implementation of the plan.

D.2.a. The residential program shall provide information on eligibility requirements and application materials upon ~~any~~ and all requests.

E.3.d. Staffing ~~ratios~~ needs.

(1) The determination of staff needs shall include consideration of staff members' experience and training, as well as the overall ratio of staff to residents.

(2) The number of available direct care resident living staff shall be related to each resident's degree of handicap and his training needs.

~~(3) The minimum overall ratios of resident living staff necessary to provide 24 hour supervision shall be as follows:~~

~~(a) For units including children under the age of six years, severely and profoundly retarded, person, severely physically handicapped persons, and residents who are aggressive, assaultive, or security risks, or whom manifest severely hyperactive or psychotic like behavior, the overall staff to resident ratio (allowing for a five day work week plus holiday, vacation, and sick time) is 1:2.~~

~~(b) For units serving moderately retarded residents requiring habit training, the overall staff to resident ratio is 1:2.5.~~

~~(c) For units serving residents in vocational training programs and adults who work in sheltered employment situations, the staff to resident ratio is 1:5.~~

~~(3) (4) Staff to resident ratios during peak programming hours (evenings and weekends) shall be optimized by appropriate scheduling around residents' day programs.~~

~~(5) If a residential program determines that a different staff ratio is needed to comply with the provisions of this rule, a letter shall be submitted to the Commissioner for approval. Criteria for approval shall be:~~

~~(a) Extraordinary medical, behavioral or developmental needs of residents.~~

~~(b) Possible changes that could be effected in staff assignment, deployment, or qualification to optimize utilization of existing staff.~~

~~(c) Relevance of the proposed change in staff ratio to (a) and (b) above.~~

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**SUPREME COURT****Decisions Filed Friday, May 15, 1981**

50461, 50589, 50590/177 (1980) In the Matter of the Petition for the Detachment of Certain Land from the City of Brooklyn Park and Annexation to the City of Osseo, Minnesota. Hennepin County.

Minn. Stat. § 414.061, subd. 4 (1980), relating to the concurrent detachment and annexation of municipal property is applicable only to "encircled" property.

Reversed. Sheran, C. J.

50795/Sp. Rochester Bank & Trust Company v. The Commissioner of Revenue, Relator. Tax Court.

Reversed. Peterson, J.

51288/Sp. Robert F. Linnell, Relator, v. City of St. Louis Park, *et al.*, Minnesota Department of Economic Security, *etc.*, *et al.*, intervenors. Workers' Compensation Court of Appeals.

## SUPREME COURT

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The presumption set forth in Minn. Stat. § 176.011(15) (1980) that coronary sclerosis is an occupational disease of policemen was applicable in this case because the evidence and reasonable inferences therefrom established substantial compliance with the statutory conditions precedent to its application.

Remanded for reconsideration. Peterson, J.

**51202/389 Bunge Corporation, et al., Relators, v. The Commissioner of Revenue. Tax Court.**

Commissions paid by parent corporation to a Domestic International Sales Corporation are not deductible as ordinary and necessary business expenses under Minn. Stat. § 290.09 (1978).

The order of the Commissioner of Revenue disallowing the commission deduction did not violate the Minnesota Administrative Procedure Act, Minn. Stat. §§ 15.0411-.052 (1978).

No deduction will be allowed for commissions paid to a Domestic International Sales Corporation even though the commissions are not "sham" payments.

Assessment ordered by the commissioner is valid as a fair apportionment of the parent corporation's income between Minnesota and non-Minnesota activities.

Affirmed. Peterson, J.

**51391/Sp. Math E. Woida, Appellant, v. North Star Mutual Insurance Company. Stearns County.**

Intent to injure may be inferred as a matter of law when the facts show that insured was a member of a group which was armed in order to inflict serious injury.

Insurer owes no duty to defend insured or to indemnify insured for any judgment rendered against him when an intent to cause bodily injury can be inferred as a matter of law.

Affirmed. Peterson, J.

**50935/307 The State of Minnesota by Citizens Against Power Plant Pollution, Inc. (CAPPP, Inc.), etc., et al., Appellants, v. Minnesota Environmental Quality Board of the State of Minnesota, et al., and Northern States Power Company, intervenor. Ramsey County.**

Under *No Power Line, Inc. v. Minnesota Environmental Quality Council*, 262 N.W.2d 312 (Minn. 1977), a utility may properly waive its exemption from the requirements of the Power Plant Siting Act and voluntarily submit to the public siting procedures established by that Act; therefore, the Minnesota Environmental Quality Board properly exercised its jurisdiction to consider Northern States Power Company's application for a Certificate of Site Compatibility for a site other than that designated by the exemption.

Allegations that siting of a coal-fired electric generating facility in proximity to a nuclear power plant, where an atomic accident could occur, could affect the reliability of the energy supply, do not state a claim under the Minnesota Environmental Rights Act.

The only valid bases for challenging the issuance of a site certificate are those listed in the Power Plant Siting Act and the regulations of the Minnesota Environmental Quality Board.

Under the facts of this case, plaintiffs' allegations that the MEQB failed to consider feasible and prudent alternatives to the Sherco site is barred by laches.

Affirmed. Todd, J. Dissenting, Wahl, J. Took no part, Peterson, J.

**51313, 51337/13 Harriet Kinikin v. Herman W. Heupel, M.D., Appellant, Metropolitan Medical Center, Defendant. Hennepin County.**

It was not error to admit jury issues on both battery and negligent nondisclosure in this medical malpractice case.

The claim of negligent nondisclosure was properly submitted to the jury.

The jury's award of damages, affirmed by the trial court, is not excessive.

Affirmed. Simonett, J. Took no part, Scott and Amdahl, JJ.

**51311/Sp. Ronald T. Aune v. Edward V. Bona, Appellant. Hennepin County.**

Where an experienced vendee, by reason of his own lack of diligence, failed to cure the conditions of default specified in a cancellation notice, and there was no waiver or misconduct on the part of the vendor, the cancellation proceeding effectively terminated the contract.

The trial court's consideration of a claim for conversion of personal property that had not been asserted in plaintiff's complaint constituted neither error nor prejudice.

Reversed in part, affirmed in part. Simonett, J.

# STATE CONTRACTS

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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.

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## Department of Corrections Minnesota Correctional Facility—Lino Lakes

### Notice of Request for Proposals for Psychological Services

The Minnesota Correctional Facility—Lino Lakes announces its intention to contract with a certified clinical psychologist to provide the following services:

Provide psychological evaluations on institution residents as requested by classification teams and the Minnesota Corrections Board. Advise program staff concerning treatment needs of residents and be available for consultation and/or ongoing treatment of designated residents when arranged by caseworker. Consulting sessions to consist of two five-hour visits per week, but a limit of ninety visits per year is maintained.

The estimated amount of the contract will not exceed \$15,750.00.

Direct inquiries to W. J. McGrath, Minnesota Correctional Facility—Lino Lakes, 7525 Fourth Avenue, Lino Lakes, Minnesota.

Proposals for the above contract must be submitted no later than June 19, 1981.

## Department of Education Special Services Division

### Notice of Request for Printing Services

The Assessment Section requires printing services in line with the conduct of statewide testing in major subject matter areas. The following services are required: 1) developing and printing 7,500 test booklets of approximately 52 pages in length at each of grades 4, 8, and 11 in Social Studies, Reading, and Visual Arts. It should be clear that this activity represents nine separate developmental and printing activities, three of which will occur in line with each of fall, winter, and spring testing; 2) developing and printing 200,000 common answer sheets; and 3) developing and printing 6,500 computer header sheets.

It is anticipated that the total cost of this activity will be approximately \$40,000. For additional information, please contact:

Dr. William B. McMillan, Director  
Assessment Section  
Room 730, Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101

Formal bids will be processed through the State Department of Administration and should be received no later than July 15th, 1981.

## Department of Public Safety Office of Public Information

### Notice of Availability of Graphic Arts Contract

The Department of Public Safety Office of Public Information is seeking proposals for a graphic arts contract not to exceed \$24,000. The term of the contract runs from July 1, 1981 through June 30, 1982. The contract is to include illustrations, providing specifications for typesetting, creating layouts and finished art for publications, designing displays and brochures, hand lettering posters and providing general consultative assistance in the area of graphics.

## **STATE CONTRACTS**

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Contractor is to pick up and deliver assignments to meet departmental deadlines. Prospective bidders must be prepared to furnish samples of previous work, with an emphasis on illustrating and the production of relatively "low cost to reproduce" brochures. Actual recently completed brochure of this type, accompanied by its actual itemized invoice, will be required to be submitted as part of the proposal.

For additional information contact Larry A. Etkin, Information Officer, Department of Public Safety, 318 Transportation Building, St. Paul, MN 55155, 296-8238. A detailed Request for Proposals is available. Deadline for submission of proposals is June 15, 1981.

The Department of Public Safety will retain an option to renew the contract for a second year if the Office of Public Information is satisfied with the vendor's performance.

### **Department of Public Welfare Mental Health Bureau**

#### **Notice of Request for Proposals Concerning Updating of the Fixed Asset Inventory Records of the State Hospitals/Nursing Homes for the Fiscal Year Ending June 30, 1981**

Notice is hereby given that the Minnesota Department of Public Welfare is requesting proposals for updating of the fixed asset inventory records of the nine state hospitals and the two state nursing homes for the fiscal year ending June 30, 1981, in accordance with requirements contained in the U.S. Department of Health, Education, and Welfare Provider Reimbursement Manual of Depreciation.

The estimated amount of the contract will not exceed \$11,000.00.

All proposals must be received by 3:30 p.m., June 17, 1981.

Responders interested in obtaining additional information regarding the specific scope of the project should contact:

James A. Walker  
Administrative Management Director  
Residential Facilities Division  
Mental Health Bureau  
Department of Public Welfare  
4th Floor, Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
Telephone: 612-296-8980

### **State University System**

#### **Notice of Request for Proposals for Auditing Services**

The State University System is requesting proposals for auditing services. The project will include an audit of the National Direct Student Loan Program, College Work-Study Program, Basic Educational Opportunity Grants Program, and Supplemental Educational Opportunity Grants Program, and will be performed in accordance with the financial and compliance elements as prescribed by the Federal Department of Education. The requested services are outlined in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Gerald Rushenberg  
Internal Auditor  
State University System  
407 Capitol Square Building  
St. Paul, Minnesota 55101

It is anticipated that the activities to accomplish this audit will not exceed a total cost to the State of \$175,000. The deadline for submission of completed proposals will be the close of the working day of June 10, 1981.

# OFFICIAL NOTICES

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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.

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## Office of Administrative Hearings

### Notice of Intent to Solicit Information on Rules Relating to Hearings Involving the Workers' Compensation Laws

Pursuant to the provisions of Minn. Stat. 1980 § 15.0412, subd. 6, notice is hereby given that the Chief Hearing Examiner of the Office of Administrative Hearings intends to obtain information or opinions from sources outside of the agency for the purpose of drafting, proposing and adopting temporary and permanent rules relating to hearings involving the Workers' Compensation Laws. All interested persons may submit data or views on the subject in writing or orally by contacting Duane R. Harves, Chief Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, (612-296-8100). Any written material received will become a part of the hearing record to be submitted to the Attorney General at the time the rules are adopted. Data or views must be submitted as soon as possible to be considered for the temporary rules, and may be submitted until July 1, 1981 for consideration in the permanent rules.

Any persons desiring to be sent any drafts of these proposed rules, either temporary or permanent, or who desire to have their name placed on the agency list of persons to be notified of the agency's intent to adopt rules should submit such request, in writing, to Sharon Schmidt, Administrative Assistant, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104.

## Department of Commerce Insurance Division

### Meeting Notices

Minnesota Comprehensive Health Association

Finance Committee Meeting

Tuesday, June 9, 1981

1:30 p.m.

NWNL Reinsurance Company

100 North 7 Street—Suite 400

Minneapolis, Mn 55403 and

Board of Directors

Tuesday, June 16, 1981

Following Annual Meeting of Members

Room 51 State Office Building

St. Paul, Minnesota 55155

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

## State Board of Education Department of Education Department of Public Safety

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Qualifications for School Bus Drivers

Notice is hereby given that the State Departments of Public Safety and Education are seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing school bus driver examination, physical qualification, and school bus endorsement.

## OFFICIAL NOTICES

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The promulgation of these rules is authorized by Minnesota Statutes, § 171,321, which requires the State Board of Education and the Commissioner of Public Safety to jointly prescribe rules governing qualifications of individuals to drive school buses.

The State Departments of Public Safety and Education request 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 statements should be addressed to:

Gerald Pavek  
Pupil Transportation  
Department of Education  
550 Cedar Street  
St. Paul, MN 55101

Diane Hamilton  
Department of Public Safety  
211 Transportation Building  
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone by contacting Gerald Pavek at 296-2839, and in person at the above addresses.

All statements of information and comment shall be accepted until June 26, 1981. Any written materials received by either the Department of Public Safety or the Department of Education shall become part of the record in the event that the rules are promulgated.

May 15, 1981

Howard B. Casmey  
Secretary

John P. Sopsic  
Commissioner of Public Safety

## Water Planning Board

### Notice of Meeting

Notice is hereby given that the Water Planning Board will hold a meeting on Wednesday, May 27, 1981, in the third floor conference room at the Department of Natural Resources, Centennial Building, beginning at 1:30 p.m. An agenda for the meeting may be obtained one week prior to the meeting by contacting the undersigned at 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101.

Thomas Kalitowski  
Chairman

## Pollution Control Agency

### Notice of Intent to Act on a Proposed Amendment to the Air Quality Plan for Transportation in the Twin Cities Metropolitan Area

Notice is hereby given that the Minnesota Pollution Control Agency will consider adoption of an amendment to the Air Quality Control Plan for Transportation during its regular monthly meeting on June 23, 1981, in the agency offices at 1935 West County Road B2, Roseville, Minnesota 55113. The agency meeting begins at 9:00 a.m. An agenda will be issued by June 12, 1981, and interested persons are invited to contact Jayne M. Stilwell of the agency staff at the address noted above or at (612) 296-7280 for the time at which the amendment will be discussed.

The public is hereby invited to attend the board meeting on June 23, 1981, and to comment on adoption of the proposed amendment. Written comments may be submitted prior to the board meeting and should be mailed to Douglas M. Benson at the address noted above.

The purpose of this amendment to the Air Quality Control Plan for Transportation is to eliminate violations of the eight-hour ambient air quality standard for carbon monoxide at the intersection of Snelling and University Avenues in St. Paul. This amendment is proposed in accordance with Part D of the Clean Air Act.

If adopted by the Pollution Control Agency Board, the amendment will include in the State Implementation Plan a change in signalization at the intersection of Snelling and University to eliminate violations of the eight-hour carbon monoxide standard.

Dated this 1st day of May 1981.

Louis J. Breimhurst  
Executive Director

## **Pollution Control Agency**

### **Notice of and Order for Hearing Regarding the Application by the City of Lake City for a Phosphorous Variance from 6 MCAR § 4.8015 C.6. for Its Wastewater Treatment Facility**

It is hereby ordered and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held by the Minnesota Pollution Control Agency (MPCA) pursuant to Minn. Stat. chapters 115 and 116 (1980) and 6 MCAR §§ 4.8015.C.6. and 4.8036 on Wednesday, June 24, 1981, at the City Hall Chambers, City Hall, Lake City, Minnesota 55041, commencing at 1 p.m. and continuing at 7 p.m. If necessary, the hearing will be continued at 2 p.m. on Thursday, June 25, 1981, at the same location and thereafter until adjournment. However, since it is not certain that it will be necessary to continue the hearing a second day, those who want to participate should attend the hearing on June 24, 1981.

The City of Lake City, 205 West Center Street, Lake City, Minnesota 55041, has applied for a variance for an indefinite period of time from 6 MCAR § 4.8015.C.6., which establishes an effluent phosphorus concentration of one milligram per liter for effluents discharged into the interstate waters of the State. The City of Lake City currently operates a wastewater treatment facility, consisting of grit chamber, bar screens, barminutor, two aereation basins, two final clarifiers, chlorine contact chamber aerobic sludge digester, sludge holding tank, and sludge loading facilities. The Lake City facility is located in the NE¼ of the NW¼ of Section 9, Township 111 N, Lake Township, Range 12 W in Wabasha County, and discharges treated domestic wastewater at an average rate of approximately .43 million gallons per day (mgd) into Lake Pepin on the Mississippi River. If the variance is granted for the Lake City facility, the annual mean effluent phosphorous concentration will be, based on past operating data, approximately 4.4 milligrams per liter.

The Director of the MPCA has made a preliminary determination to recommend to the Board of the MPCA that the requested variance be granted and that the NPDES/SDS permits for the city be modified by incorporating the variance.

The purpose of the hearing is to determine whether the variance should be granted and, if so, whether the permit should be modified by incorporating the variance. The major issues to be addressed at the hearing, as identified in the request for the variance, are: 1) the economic burden of compliance with 6 MCAR § 4.8015 C.6; and 2) whether the granting of the variance would result in any detrimental impact to interstate waters of the State. In addition, such other issues as are germane to the environmental impact of the requested variance and the operation of the facility, as may be determined during the course of a prehearing conference, may be addressed at the hearing.

Please be advised that these issues may, without further notice, be modified and/or amended by the Hearing Examiner during the prehearing conferences. Additionally, prehearing conferences may result in the establishment of foundation for witnesses and exhibits.

The hearing will be held before Mr. Allan W. Klein, Office of Administrative Hearings, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone: (612) 296-8104, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel, themselves, or any other representative of their choice, if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the procedures set out in Minn. Stat. §§ 15.0411 through 15.052, 9 MCAR §§ 2.201 through 2.299 (Office of Administrative Hearings Contested Case Rules), and 6 MCAR §§ 4.3001 through 4.3013 (Minnesota Pollution Control Agency Rules of Procedure), to the extent the latter rules do not conflict with the former rules.

The above-cited procedural rules are available for inspection at the Office of Administrative Hearings and the MPCA or may be purchased from the State Register & Public Documents Section of the Department of Administration, 117 University Avenue, Saint Paul, Minnesota 55155, telephone: (612) 297-3000.

The applicant, the City of Lake City, is a party to the hearing at the present time, pursuant to 6 MCAR § 4.3009. In addition, the MPCA Staff intends to file a Petition to Intervene as a party. Any other person wishing to become a party to the hearing must file a Petition to Intervene with the Hearing Examiner pursuant to 9 MCAR § 2.210 on or before June 5, 1981, and a copy must be served on all existing parties and the MPCA. The Petition may be filed after June 5, 1981, if there is good cause for the petitioner's failure to file the Petition in a timely manner. The Petition must show how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case, and shall set forth the grounds and purposes for which intervention is sought and indicate the petitioner's statutory right to intervene if one should exist. The name and address of the Hearing Examiner are noted above. The representative for the City of Lake City is James Bigger, City Hall, Lake City, Minnesota 55041, telephone: (612) 345-5383. Counsel for the MPCA Staff is John C. Bjork, 1935 West County Road B-2, Roseville, Minnesota 55113, telephone: (612) 296-7771.

In the absence of a Petition to Intervene, any person at the hearing will nevertheless be allowed to offer testimony and

## OFFICIAL NOTICES

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introduce exhibits, note his appearance or question witnesses, but no person shall become, or be deemed to have become, a party by reason of such participation. Persons offering testimony or exhibits may be questioned by parties to the hearing.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the Hearing Examiner or the MPCA in determination of the above-entitled matter. Persons attending the hearing should bring all factual information or evidence bearing on the case which they wish to have included in the record.

The application for the variance and other documents related to this matter may be inspected and copied any time between 8:30 a.m. and 4 p.m., Monday through Friday, at the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113, telephone: (612) 296-7217; or at the Minnesota Pollution Control Agency, Regional Office, 1200 South Broadway, Suite 140, Rochester, Minnesota 55901, telephone: (507) 285-7343.

Questions concerning the issues raised in this Notice of and Order for Hearing or concerning informal disposition or discovery may be directed to Special Assistant Attorney General John C. Bjork at the address and phone number noted above.

All persons are advised that, if they intend to appear as parties at the hearing, a Notice of Appearance form must be completed and returned to the Hearing Examiner within twenty (20) days of the date of service of the Notice of and Order for Hearing. The Notice of Appearance form may be obtained from Special Assistant Attorney General John C. Bjork at the address and phone number noted above. Should a party fail to appear at the hearing, the issues set out in this order may be deemed proved, with the consequence that the requested variance may be granted and the proposed permit may be issued in its present form.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner as soon as possible but, in any event, at least five days prior to the hearing. A copy of the request must be served on the MPCA and all other parties.

May 14, 1981.

Louis J. Breimhurst  
Executive Director

## Department of Public Welfare Support Services Bureau

### Notice of Intent to Solicit Outside Opinion Concerning Reimbursement for Cost of Care of Patients of a State Hospital

Notice is hereby given that the Minnesota Department of Public Welfare is drafting a proposed rule 12 MCAR § 2.027 (Reimbursement for Cost of Care of Patients of a State Hospital).

This rule will govern the investigation the commissioner shall make when determining the charges patient shall be ordered to pay for his/her observation, diagnosis, care and treatment in a state hospital.

Authority for this rule is contained in Minnesota Statutes, § 253A.21, subd. 6 (1980) and Minnesota Statutes, § 15.0412, subd. 3 (1980).

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:

Jane Turner  
Bureau of Support Services  
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) 296-4415.

All statements of information and comment must be received by July 1, 1981. Any written material received by the department shall become part of the hearing record.



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OFFICE OF THE STATE REGISTER  
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