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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 6			
23	Friday Nov 20	Monday Nov 30	Monday Dec 7
24	Monday Nov 30	Monday Dec 7	Monday Dec 14
25	Monday Dec 7	Monday Dec 14	Monday Dec 21
26	Monday Dec 14	Friday Dec 18	Monday Dec 28

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

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

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

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

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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:

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Issues 14-25, inclusive	Issues 40-51, inclusive
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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 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce Board of Barber Examiners

Proposed Rules Amending License and Renewal Fees

Notice of Intent to Amend Rules without a Hearing

Notice is hereby given that the Board of Barber Examiners has proposed the following rules amending the fees charged for license; issuance and renewal. These rules are promulgated pursuant to Minn. Stat. §§ 214.06 subd. 1 (1980); 15.0412 subd. 4 (1980) as amended by Laws of 1981, ch. 357 § 25; 16A.128 (1980), as amended by Laws of 1981, ch. 357 § 26. These provisions authorize the Board of Barber Examiners to adopt rules amending its fees without a public hearing when the total fees estimated to be received during the fiscal biennium will not exceed 110 percent of the sum of all direct appropriations, transfers in, and salary supplements for that purpose for the biennium.

No hearing will be held prior to the promulgation of these rules by the Board of Barber Examiners. All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 30 days immediately following publication of this material in the *State Register* by writing to Executive Secretary, Board of Barber Examiners, 500 Metro Square Building, St. Paul, Minnesota 55101. The proposed rules may be modified if modifications are supported by the data and views submitted. Any written material received shall become part of the record in the final adoption of the proposed rules. Any person who desires to be notified when the proposed rules and record herein are submitted to the Attorney General should so inform the Executive Secretary of the Board of Barber Examiners. Publication is hereby ordered.

Rule as Proposed

4 MCAR § 8.079 Fees. The Board of Barber Examiners shall charge the following fees:

	Fee
examination and certificate, registered barber	\$ 48-00
examination and certificate, apprentice	46-00
examination, instructor	150-00
certificate, instructor	35-00
renewal of license, registered barber	\$18-00
renewal of license, apprentice	\$16-00
renewal of license, instructor	35-00
student permit	10-00
initial shop registration	50-00
initial school registration	1,000-00
renewal shop registration	10-00
renewal school registration	200-00
restoration of registered barber license	25-00
restoration of apprentice license	25-00

restoration of shop registration
change of ownership or location
duplicate license

25-00
10
5

Department of Commerce Office of Consumer Services

Proposed Temporary Rules Governing Cosmetology Schools, Licensing and License Fees

Request for Public Comment

Notice is hereby given that the Office of Consumer Services is proposing to adopt temporary rules to govern cosmetology schools, licensing and license fees as authorized by Laws of 1981, ch. 357, § 35 and to temporarily amend 4 MCAR §§ 10.004, 10.021, 10.026, 10.028 and 10.041. The temporary rules as proposed appear following this notice. For 20 days following the date of publication any person may submit data and views on the agency's proposed actions by writing to the Office of Consumer Services, Attention: Ms. Paula Stenlund, 128 Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota 55101. The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency. After the 20 day comment period the proposed temporary rules, with any modifications, will be sent to the Office of the Attorney General for review. If approved by the Attorney General the adopted temporary rules will remain in effect for 180 days or until permanent rules are adopted, whichever comes first. In accordance with Laws of 1981, ch. 357, § 35, if permanent rules are not adopted at the end of 180 days, the temporary rules may be reissued until December 31, 1982 or until permanent rules are adopted.

November 16, 1981.

Kris Sanda, Director
Office of Consumer Services

Temporary Rules as Proposed

4 MCAR § 10.004 Instructors. [Temporary]

F. There shall be one full-time qualified senior instructor for every 20 students, or fraction thereof, enrolled.

4 MCAR § 10.021 Fee—License. [Temporary]

B. Licenses. In addition to all other fees for examination as provided in these rules, the following schedule of fees shall be applicable:

1.-4. [Unchanged.]

5. for the initial license and each annual renewal of an initial operator's license the fee shall be ten (\$10) dollars, with a renewal fee of \$10 per year.

6. for the initial license and each annual renewal of a an initial manicurist's license, the fee shall be ten (\$10) dollars, with a renewal fee of \$10 per year.

7. for the initial license and each annual renewal of a an initial manager/operator's license, the fee shall be ten (\$10) dollars, with a renewal fee of \$10 per year.

8.-12. [Unchanged.]

13. as a penalty for failure to renew any of the above individual licenses on or before the deadline expiration date for each license, the penalty shall be two (\$2) dollars \$10.

14. for failure to renew a school license on or before the expiration date, the penalty shall be \$100.

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

15. for failure to renew a beauty shop license on or before the expiration date, the penalty shall be \$50.

16. for processing requests for verification of hours and Minnesota licensure, the fee shall be \$15.

17. for checks returned because of insufficient funds, the penalty shall be \$10.

C. Failure to renew an individual license. If a licensee has not renewed an individual license within 90 days after the expiration date, that person shall be required to retake the state examination (practical and written) before a license will be reissued.

4 MCAR § 10.026 ~~Out of state students~~ Additional application requirements. [Temporary]

D. ~~An~~ Any applicant who ~~cannot read or write the English language sufficiently to write the written examination may be exempt from the written examination and in its place be subjected to an oral one. Before such a person is admitted to such an examination, the applicant~~ requests an interpreter's assistance during the written examination or who applies for a license through reciprocity and whose native language is not English ~~must shall~~ appear before the ~~State Board for questioning~~ Office of Consumer Services, Cosmetology Unit, prior to the written examination, to ~~verify~~ demonstrate to the satisfaction of the ~~State Board that said applicant has received in the country from which he comes a tenth grade school education or equivalent thereof, as required under our law and~~ director that he or she ~~cannot~~ can read or write the English language and understand English to the extent necessary to follow written directions and to safely use cosmetology products.

E. All applicants shall have completed a tenth grade education or its equivalent.

4 MCAR § 10.028 Reciprocity. [Temporary] ~~In addition to the requirement of Minn. Stat. § 155.14~~ An applicant, applying for a license through reciprocity ~~must also~~ shall pay a fee of \$15 and comply with the following requirements:

A. The applicant shall provide documentation of current ~~license~~ licensure from another state or, foreign country, territory, or the District of Columbia, and of having lawfully practiced cosmetology there for a period of at least two years.

B. If the state, territory, or foreign country does not issue a license, the applicant ~~must shall~~ show documentary evidence and proof of having practiced lawfully for a period of two years, one year of which must be within the two years immediately prior to the date of ~~such~~ application.

C. An applicant for a manager-operator's license shall provide documentation of having practiced as a manager-operator for at least two years, one year of which must have been within two years immediately prior to the date of application.

4 MCAR § 10.041 General operation. [Temporary]

H. Manager-operator, operator and ~~manicurists~~ manicurist licenses ~~expire on December 31st of each year~~ issued for 1981 may, at the discretion of the director, be extended beyond the original expiration date of December 31, 1981. Any extension shall terminate on or before March 31, 1982, the exact expiration date to be determined by the director, who will notify all affected licensees. Notwithstanding any extension, the 1982 licensing period shall be deemed to have begun on January 1, 1982, and fees shall be collected on that basis. One-third of the current licenses shall be renewed for one year, one-third for two years, and one-third for three years. Assignment of a renewal period shall be made alphabetically. The renewal fee shall be \$10 for one year, \$20 for two years, and \$30 for three years. All licenses issued after January 1, 1982, and all renewal licenses issued after March 31, 1982 shall be for three years at a fee of \$30.

State Board of Education Department of Education Special Services Division

Proposed Amendments to the Rule Governing the Licensure of Counselors in Middle Schools (5 MCAR § 1.0531)

Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the State Board of Education proposes to adopt the above-entitled rule without a public hearing. The board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (1980).

PROPOSED RULES

The proposed rule governs the licensure of counselors in middle schools as authorized by Minn. Stat. §§ 121.11, subd. 12, and 125.05, subd. 1 (1980), which establish authority for the State Board of Education to license school counselors.

Proposed 5 MCAR § 1.0531 H. establishes procedures for persons to be issued middle school counselor licensure on the basis of three years of counseling experience in a Minnesota middle school prior to July 1, 1983. Such experience must be verified by the employing school superintendent.

Proposed 5 MCAR § 1.0531 I. and J. are renumbering requirements made necessary by the inclusion of proposed H., above.

Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

George B. Droubie, Manager
Personnel Licensing and Placement
610 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
Telephone: (612) 296-2046

Authority for the adoption of this rule is contained in Minn. Stat. §§ 121.11, subd. 12, and 125.05, subd. 1 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from George B. Droubie upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, and the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to George B. Droubie.

A copy of the proposed rule is attached to this notice.

Copies of this notice and the proposed rule are available and may be obtained by contacting George B. Droubie.

November 10, 1981

John J. Feda, Secretary

Rule as Proposed

5 MCAR § 1.0531 Counselors in middle schools.

A.-G. [Unchanged.]

H. Persons holding a valid Minnesota elementary or secondary school counselor license who have a minimum of three years of counseling experience in a Minnesota middle school prior to July 1, 1983, as verified by the employing school superintendent, shall, upon application, be issued a license as a middle school counselor.

~~I. Except for provision H., all provisions of this rule shall become effective July 1, 1983.~~

J. Paragraphs A.-G. shall be effective July 1, 1983.

Relettering. Reletter 5 MCAR § 1.0531 H. as I.

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

State Board of Education (State Board for Vocational Education) Department of Education Vocational-Technical Education Division

Proposed Rules Governing Criteria for Adult Vocational Program Funding (5 MCAR §§ 1.0111-1.0117)

Notice of Hearing

A public hearing concerning the proposed rule will be held at the State Office Building, Room 83, Auditorium, 435 Park Street, St. Paul, Minnesota 55155 on January 8, 1982, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements will be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Richard C. Luis, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8114 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all the evidence and arguments which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The purpose of the proposed rule amendment is to promulgate rules governing the criteria to be applied by the commissioner in approving funding of Adult Vocational Education Programs.

The agency intends to present only a short summary of the statement of need and reasonableness at the hearing, but will answer questions raised by interested persons. You are therefore urged to review the statement of need and reasonableness before the hearing. Additional copies will be available at the hearing.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 124.572, subd. 3, which requires the state board to adopt criteria for program approval.

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

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Sharon Grossbach, Division of Vocational-Technical Education, 529 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. If you have any questions on the content of the proposed rules, contact Sharon Grossbach.

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

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

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

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

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

October 13, 1981

John J. Feda, Secretary

Rules as Proposed

5 MCAR § 1.0111 ~~Scope. These Rules 5 MCAR §§ 1.0111-1.0117 govern the operation of adult vocational-technical programs offered by the public schools of Minnesota; a school district or cooperative center desiring to offer adult vocational-technical programs for which state aids are to be received shall be in compliance with these rules paid.~~

5 MCAR § 1.0112 ~~Instructional program approval. Program criteria. An adult vocational-technical program shall meet the following requirements shall apply criteria to all requests for initial and annual program approval. Only be approved programs can be a part of the district's budget request as eligible for state aid.~~

A. Enrollees. ~~An overall adult vocational-technical advisory committee or program advisory committees for each occupational area shall be maintained which shall meet one or more times a year. Nothing shall prevent a district or center from having both. Local school personnel shall not be members of advisory committees within the district or center except as ex officio nonvoting members. The enrollees shall have completed or terminated secondary school. They shall be at least 16 years old.~~

B. Instructor licensure. ~~For the purpose of B., instructor includes a specialist, a guest lecturer and a resource person. Instructional staff. An instructor shall hold a valid adult vocational-technical license in the area for which aid is claimed taught. Adult instructors serving over. An instructor who teaches more than 500 clock hours on an annual basis annually shall meet full-time adult licensure requirements or post-secondary licensure requirements in the area taught if full-time adult licensure requirements do not exist. An instructor who teaches six hours or less in three consecutive months is not required to hold a license.~~

C. Administrative services. ~~Administrative services shall be provided to administer the adult vocational-technical program needs.~~

D. Advisory committee. ~~Part-time programs shall have an enrollment of ten or more enrollees per program. When more than one program section is in operation, enrollment shall average ten or more enrollees. The district or center shall have either an adult vocational-technical advisory committee or program advisory committees for each occupational area in which courses are offered. A district or center may have both types of committees. A committee shall meet at least once a year. District or center employees shall not be voting members of the advisory committees in the district or center in which they are employed but may serve as ex officio nonvoting members.~~

E. Evaluation. ~~Programs with full time adult enrollees shall meet the following criteria: The district or center shall conduct an annual evaluation.~~

1. ~~Shall employ a minimum of a 40 percent instructor.~~

2. ~~Adult farm management shall have a minimum enrollment of 42 cooperators, 30 of whom shall have been enrolled six years or less. When more than one adult farm management education program is operated within a district, enrollment shall average 42 or more. Eighty percent or more of the cooperators who have been enrolled for one full year or more, as measured from July 1 of any calendar year, shall have an annual analysis of their farm accounts. For programs not meeting the minimum enrollment prior to July 1, 1982, school districts shall apply annually to the commissioner of education for an exception. This exception shall be granted if:~~

a. ~~An exception would allow enrolled cooperators to complete their program of education; or,~~

b. ~~The instructional quality and efficiency would be improved by the exception.~~

3. ~~New programs in adult farm management or an existing program with a new instructor shall reach minimum~~

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PROPOSED RULES

enrollment of 42 enrollees within four years. For programs not meeting the minimum requirements school districts shall apply annually to the commissioner of education for an exception to this rule which shall be granted if the school district provides evidence that:

- a. An exception would allow enrolled cooperators to complete their program of education; or
- b. The instructional quality and efficiency would be improved by the exception.

4. Small business management education programs shall have a minimum enrollment of 30 enrollees who have been enrolled three years or less. Eighty percent or more of the persons who have been enrolled for one full year or more, as measured from July 1 of any calendar year, shall have an annual analysis of their business accounts. For programs not meeting the minimum enrollment prior to July 1, 1981, school districts shall apply annually to the commissioner of education for an exception. This exception shall be granted if:

- a. An exception would allow enrolled cooperators to complete their program of education; or,
- b. The instructional quality and efficiency would be improved by the exception.

5. New programs in adult small business management or an existing program with a new instructor shall have 3 years to reach minimum enrollment as specified in E.4. above. For programs not meeting the minimum requirements school districts shall apply annually to the commissioner of education for an exception to this rule which shall be granted if the school district provides evidence that:

- a. An exception would allow enrolled cooperators to complete their program of education; or,
- b. The instructional quality and efficiency would be improved by the exception.

6. Full-time adult education programs except adult farm management and small business management shall have a minimum student enrollment of 14.

F. Review by accrediting body. When an existing program does not meet the minimum enrollment, the program shall be placed on probation for one year. If a program is subject to review by a national or state accrediting body, the district or center shall notify the Department of Education of the review date at least 30 days before the review. The district or center shall copy all information supplied to the accrediting body and retain the copies.

5 MCAR § 1.0113 Course criteria, procedures and priorities. For purposes of this rule, a course includes an adult vocational course, workshop or instructional services.

A. Course criteria. A course shall meet one or more of the following criteria to be approved as eligible for state aid.

1. The course is vocational in nature. Courses which train, retrain or upgrade adults for paid employment in agriculture, businesses, offices, marketing, distribution, health occupations, trades, industries, technical occupations, and service occupations are vocational in nature. Courses in which adults are pursuing avocational or leisure time activities or hobbies are not vocational in nature.

2. The course trains, retrains or upgrades adults who are responsible for public health and safety even if the adults are not financially compensated for the services.

3. The course trains, retrains or upgrades adults in occupational areas which have employment opportunities.

4. The course trains, retrains or upgrades adults in response to area or state businesses.

5. The course trains, retrains or upgrades adults to own, operate or manage a business or farm.

6. The course trains, retrains or upgrades adults for occupations in a particular business if the skills and knowledge taught are transferable to other businesses.

7. The course teaches consumer skills, resource management, nutrition, parent, individual, and family development, and the care and nurturing of children. Home crafts, home cooking and home sewing courses are not eligible.

8. The course trains, retrains or upgrades adults who are required to meet local, state, or federal government standards to enter or maintain an occupation.

9. The course has been offered in the past and has been determined by the community to be successful in meeting occupational or public service needs.

10. The course provides specialized assistance for disadvantaged persons preparing for economic self-sufficiency when those persons are also enrolled or plan to become enrolled in vocational courses.

11. The course is economical and efficient either as calculated per student, per student per hour, per employer, per family business or when necessary specialized equipment is available at low cost or no cost through a business or school.

12. The course provides training in new technology or new equipment and enables adults to retain their present employment.

B. List of approved courses. The Department of Education shall make available to districts and centers a list of course descriptions that meet the criteria in A.

C. Prior written approval. A district or center shall not offer a course which is not on the list if it intends to claim state aid unless the district or center has obtained prior written approval for that fiscal year from the department. The department shall approve or disapprove a course within 30 days after it receives a complete, written request for approval.

D. Course selections and priorities. When moneys available for adult vocational-technical education are insufficient to fund all the courses and services desired, the district or center shall develop and maintain a breadth of course selections. The department shall review course selections to assure that breadth is developed and maintained throughout the state. The department shall give priority to the following when it approves courses for funding:

1. Courses addressing needs of adults who are currently unemployed or employed in unskilled, low-paying positions and who have potential for employment in more highly skilled, higher paying positions;

2. Courses which are planned, coordinated, and jointly offered with other districts, public or nonpublic agencies or organizations;

3. Programs mandated by the Legislature, if any; and

4. Courses likely to improve the economy of the community, area or state by attracting or expanding business.

5 MCAR § 1.0114 General and special requirements.

A. Applicability. The requirements of B. and C. apply to courses other than adult farm management and small business management. The provisions of D.-J. apply to adult farm management and small business management.

B. Minimum enrollment. A course shall have at least ten people enrolled for vocational purposes to be eligible for state aid. If more than one section of a course is offered, the average enrollment shall be at least ten.

C. Variance. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance. The commissioner shall grant a variance when:

1. The course is required by law;

2. Fewer than ten people need specialized training to become employed;

3. Fewer than ten people need specialized services to prepare for economic self-sufficiency; or

4. Equipment limitations require fewer than ten people.

D. Full-time adult farm management instructor. A full-time adult farm management instructor shall have a minimum enrollment of 42 cooperators, 30 of whom shall have been enrolled six years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

E. New adult farm management. When a district or center first offers instruction in adult farm management or when a new instructor is employed, the minimum enrollment of 42 cooperators shall be reached within four years. After the first four years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

F. Part-time adult farm management instructor. An adult farm management instructor shall be employed at least 40 percent of full-time. The minimum enrollment in D. and E. shall be reduced proportionately for an instructor employed less than full-time. A fraction smaller than one-half shall be rounded down and a fraction of one-half or larger shall be rounded up to the nearest whole number.

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PROPOSED RULES

G. Full-time business management instructor. A full-time small business management instructor shall have a minimum enrollment of 30 adults who have been enrolled three years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

H. New small business management. When a district or center first offers instruction in small business management or when a new instructor is employed, the minimum enrollment of 30 adults shall be reached within three years. After the first three years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

I. Variance for completion. The Commissioner of Education shall grant a variance from the enrollments required in D.-H. if the variance would allow enrollees to complete the instruction. The variance granted shall be only for the amount of time needed for enrollees to complete the instruction. No adults may begin instruction in adult farm management or small business management unless the number of adults beginning would be sufficient to meet the required minimum enrollments.

J. Account analysis. Eighty percent or more of the enrolled adults who have been enrolled in adult farm management or small business management for one year or more, from July 1 of any year, shall annually have an analysis of their farm or business accounts.

5 MCAR § 1.0115 Adult vocational aid.

A. District procedures. A district or center shall use the following procedures when requesting aid.

1. It shall authorize an administrator to represent it. The administrator shall hold a valid license as a superintendent, adult vocational director, AVTI director, or secondary vocational director.

2. It shall plan and submit the program and state aid budget request to the district school board or the center board. The board shall approve the program and the state aid budget request before submitting them to the department.

3. It shall submit the program and the state aid budget request by January 1 preceding the fiscal year in which aids are to be paid.

4. It may submit additional state aid budget requests for any moneys remaining after the initial budget approval dates designated in B.

5. It shall conduct the program for which aid is approved or return the aid.

6. It shall submit adult report forms by August 15 for the program that was conducted during the preceding state fiscal year.

B. Department procedures. The department shall approve or disapprove the program and state aid budget request by July 1 in odd numbered calendar years or by March 1 in even numbered calendar years.

C. Aid for personnel. The state shall pay 75 percent of salaries paid to essential licensed personnel and personnel exempt from licensure. Salaries for instructors, coordinators, administrators, specialists, guest lecturers and resource personnel as part of an approved program are eligible for aid if licensure requirements are met.

D. Administrative staff. A district or center is eligible for aid for one full-time equivalent adult vocational licensed administrative staff member if either of the following conditions are met.

1. The district or center enrolls 2,000 or more adults annually in approved programs. Adults enrolled in more than one program may be counted in each program in which they are enrolled.

2. The district or center provides supervision to all full-time adult instructors through the vocational administrator and maintains 2,500 instructional hours of part-time vocational education. Courses with full-time instructors may be counted as 200 instructional hours toward this requirement.

E. Additional administrative staff. A district or center is eligible for additional full-time equivalent administrative staff when increments of D.1. or 2. are met. If a district or center has less than a complete increment of D.1. or 2., it is eligible for proportionate additional part-time administrative staff.

F. Only the portion of time devoted to adult vocational-technical programs shall be eligible for aid.

G. Aid for travel. The state shall pay 50 percent of the cost of necessary travel between instructional sites for essential licensed personnel.

5 MCAR § 1.0116 Tuition and ~~attributable costs~~ fees.

A. Determination. The ~~school~~ district or center shall determine tuition and fees ~~except where cited below.~~

B. Nonresidents. ~~Differential tuition rates may be charged for nonresidents versus residents of a district~~ The district or center may charge different tuition and fees to nonresidents of the district or state.

C. Individuals, employers and agencies. ~~Attributable costs for individuals enrolled in a full-time adult farm management education program for more than six years, or a small business management education program for more than three years, shall be charged on an hourly basis. The hourly charge shall be determined by dividing the total direct cost of the program by the hourly assignment of the instructor. A full-time instructor load shall constitute 1200 contact hours. Record analysis fees are in addition to attributable costs~~ Tuition and fees may be charged to individuals, employers or agencies that sponsor enrollees.

D. Senior citizens. ~~Direct costs shall be determined by the sum of costs for instructional staff salary and travel between instructional sites~~ The district or center may charge full, partial or no tuition or fees for people 62 years old or older at the beginning of a course not offered for credit.

E. Special situations. An adult enrolled in a full-time adult farm management program for more than six years or a small business management program for more than three years shall be charged record analysis fees and hourly charges. The hourly charge shall be determined by dividing the total direct cost of the program by the hourly assignment of the instructor. Direct cost is the sum of instructional staff salary and travel cost between instructional sites. A full-time adult farm management or small business management instructor load shall constitute 1200 contact hours.

5 MCAR § 1.0117 Nursing assistant program.

A. Curriculum, test and evaluation. A nursing assistant education program shall use the curriculum and test developed by the Commissioner of Education as reviewed and evaluated by the Board of Nursing. The program shall include an individual written or oral test and performance evaluation. The test shall be administered monthly by the department through area vocational-technical institutes or community colleges in accordance with instructions from the commissioner. The program shall be 30 hours of planned learning activities, exclusive of the evaluation. The commissioner may prescribe a fee for administration of the test not to exceed \$30.

B. Definitions. In this rule the following terms have the meanings given them.

1. "Nursing assistant" means an individual working in or employed by a nursing home, including, but not limited to, a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of direct patient care services under the supervision of a registered nurse.

2. "Curriculum" means the aggregate of courses of study and planned learning activities developed by the Commissioner of Education.

3. "Successfully completed" means the attainment of 70 percent on the oral or written test and 70 percent on the performance evaluation.

4. "Supplemental nursing service" means an entity which recruits and employs nursing and ancillary health care personnel for temporary assignments to supplement the staff of health care institutions. It is not an employment agency but the employer of all such personnel assigned.

C. Technical assistance. Technical assistance provided by the Department of Education may include:

1. Training of instructors;
2. Utilization of the curriculum; and
3. Instructional materials.

D. Instructional staff qualifications. An instructor for an approved nursing assistant education program shall be:

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PROPOSED RULES

1. A registered nurse with at least 2,000 hours of experience within the last five years, at least 500 hours of which must be in a geriatric or rehabilitation nursing setting; or

2. A licensed practical nurse who was teaching this course in a nursing home as of January 1, 1979 who continues to teach this course in that same facility as of January 1, 1982.

E. Exemptions. The following nursing assistants shall not be required to comply with the education requirements of Minn. Stat. §§ 144A.61 and 144A.611:

1. Nursing assistants who began employment in a nursing home on or before December 31, 1978, and who continue employment in the same nursing home in which they were employed on December 31, 1978;

2. Nursing assistants who successfully completed after January 1, 1976 a training program for nursing assistants employed in nursing homes which used a program approved by the Department of Education, unless employment has been interrupted for greater than five consecutive years;

3. Nursing assistants who successfully completed a state approved nursing education program which prepares an individual for licensure as a registered nurse or licensed practical nurse if the completion occurred no more than five calendar years prior to employment;

4. Persons who have successfully completed the individual oral or written test and performance evaluation, even though they had not taken the course;

5. Registered nurses or licensed practical nurses holding current licensure in Minnesota; and

6. Nursing assistants who began employment in a supplemental nursing service on or before December 31, 1978 and who continue employment in that same nursing service in which they were employed on or before December 31, 1978, and who have worked a minimum of 12 hours per week for that same supplemental nursing service in a nursing home prior to December 31, 1978. Supplemental nursing services shall provide to the Department of Health by January 15, 1979, a list of all nursing assistants employed by the supplemental nursing services who have worked 12 hours in a nursing home on or before December 31, 1978.

Effective Date. Rules 5 MCAR §§ 1.0111-1.0117 are effective for programs and courses approved after July 1, 1982.

Repealer. Rule 5 MCAR § 1.0112 G. is repealed. Rules 5 MCAR §§ 1.0113; 1.0114; 1.0115; and 1.0117, as they existed before the effective date of 5 MCAR §§ 1.0111-1.0117 above are repealed on the effective date of the new 5 MCAR §§ 1.0113; 1.0114; 1.0115; and 1.0117.

State Board of Education Department of Education Department of Public Safety

Proposed Rules of the State Board of Education and Rules of the Department of Public Safety Governing Qualifications of School Bus Drivers

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Board of Education and the Department of Public Safety are proposing to adopt the above entitled rules without a public hearing. The State Board of Education and the Commissioner of Public Safety have determined that the proposed adoption of these rules will be noncontroversial in nature and have elected to follow procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed rules, a copy of which is attached, clarifies the school bus drivers endorsement, testing requirements, control of diabetes, and renewal requirements.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to either the Department of Education or the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment

PROPOSED RULES

period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. In the event a public hearing is required, the State Board of Education and the Department of Public Safety will proceed according to the provisions of Minn. Stat. § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of the proposed rules, should address their correspondence to:

Diane Hamilton
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155
Telephone: (612) 296-7096

Gerald Pavek, Director
Pupil Transportation
Department of Education
550 Cedar Street
Telephone: (612) 296-2839

The agencies' authority to adopt the proposed rules is contained in Minn. Stat. § 171.321. A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from either of the above named individuals upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to one of the above addresses.

It is estimated that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7.

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

November 6, 1981

John P. Sopsic
Commissioner of Public Safety

November 10, 1981

John J. Feda
Secretary

Rules as Proposed

~~EDU 220~~ 5 MCAR § 1.0220/11 MCAR § 1.0080 General requirement. Satisfactory completion of a school bus driver's examination shall be required of every person ~~operating any~~ required by Minn. Stat. § 171.321 to have a school bus endorsement to operate a motor vehicle used in the transportation of children to or from public, private or parochial schools and school related activities, and owned by

~~A. A government agency, or~~

~~B. A person, firm, association or corporation, or~~

~~C. Private or parochial school corporations or agencies~~ a government agency, a private or parochial school corporation or agency, or a private person, firm, association or corporation.

~~EDU 221~~ 5 MCAR § 1.0221/11 MCAR § 1.0081 ~~Written test~~ Tests. The test or examination required for ~~a an~~ an initial school bus driver's endorsement on a Minnesota driver's license shall be a written test based upon include a written test and a road test.

A. Written test. The written test shall be based on the provisions of the "Highway Traffic Regulations Act" and driver license laws, and rules ~~and regulations~~ relating to school bus operation prescribed by the State Board of Education, and a general knowledge of the operation of school buses, including knowledge of the equipment, devices, and laws peculiar to school buses. The written test shall be satisfactorily completed if a score of 70 is obtained. In determining whether a score of 70 has been obtained, the Commissioner of Public Safety shall weigh each portion of the test with regard to the criticalness of the specific factor being tested in relation to overall driving safety.

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

B. Road test.

1. The road test shall be given in a school bus. There are two separate classes of endorsement: one for a school bus with a capacity of 16 passengers or fewer, the other for a school bus with a capacity of over 16 passengers. An endorsement issued to an applicant taking the test in the smaller bus will be restricted to a bus of that size. An endorsement issued to an applicant taking the test in the larger bus will be unrestricted.

2. The road test shall be satisfactorily completed if a score of 70 is obtained. In determining whether a score of 70 has been obtained, the Commissioner of Public Safety shall weight each portion of the test with regard to the criticalness of the specific factor being tested in relation to overall driving safety.

5 MCAR § 1.0222/11 MCAR § 1.0082 Physical examination.

A. Physician's certificate. An applicant for a school bus driver's endorsement shall be in good physical and mental health, be able-bodied and free from communicable disease. As evidence of his physical fitness and mental alertness, the applicant shall submit to a physical examination by a reputable physician designated by the local school authorities; and the physician's certificate of physical fitness shall accompany the application for school bus driver's endorsement when presented to the Department of Public Safety.

B. Disqualification. Any school bus driver applicant, whose physical examination discloses communicable diseases or mental or physical conditions of intermittent or continuing nature that might reasonably affect his ability to operate a school bus, shall be denied a school bus driver's endorsement. One or more of the following deficiencies will disqualify the applicant for a school bus driver's endorsement:-

1. Eyesight. Visual acuity less than 20/40 (Snellen) in either eye without lenses or by correction with lenses; total form field of vision in the horizontal meridian less than 140 degrees in either eye (drivers requiring correction by lenses shall wear properly prescribed lenses at all times when driving).

2. Hearing. Hearing less than 30 db (10/20) in the better ear, with or without a hearing aid.

3. Inebriates or users of narcotics or drugs which may impair driving ability.

4. Coronary disease. Any indication of coronary or heart ailment likely to interfere with safe driving. Electrocardiogram is required when other findings indicate desirability.

5. Blood pressure over 160/90.

6. Lungs. Failure to have a satisfactory Mantoux or chest x-ray as required by Minnesota Health Department ~~rule~~ rules 7 MCAR §§ 1.327-1.328.

7. Any communicable disease as listed in Minnesota Health Department rules 7 MCAR § 1.316 and 7 MCAR § 1.326.

8. Loss of foot, leg, hand or arm, or other structural defect or limitation of movement likely to interfere with safe driving.

9. Any mental, nervous, organic, or functional disease likely to interfere with safe driving.

10. Diabetes unless controlled by diet or oral medication only.

11. Epilepsy or other episodic (Paroxysmal) periods of unconsciousness (~~not accepted~~).

12. Use of any medication which the examining physician determines is likely to interfere with safe driving.

13. Applicant not of good general health.

C. Form of physician's certificate. The certificate to be used by the physician for reporting the physical condition of the applicant shall be one prescribed by the Department of Public Safety and may be obtained from that office or any ~~driving~~ driver examining station.

D. Periodic reexamination. Each school bus driver is required to take and pass a physical examination ~~each year~~ every two years prior to his birthday in order to retain his school bus driver endorsement. The Department of Public Safety will send physical examination certificates to school bus drivers. A school bus ~~drivers~~ driver shall return the certificate, completed by the examining physician, along with a ~~\$2.00~~ \$2 processing fee, on or before his birthday to the Department of Public Safety. Failure to pass ~~and or~~ and return the ~~yearly~~ yearly physical examination shall result in cancellation of the school bus driver endorsement from the Minnesota driver license.

E. Additional examinations. A physical examination may be required oftener upon demand of any school district from or to which such school bus driver shall be transporting school children. Such extra examination shall be paid for by the district demanding it.

~~EDU 224~~ 5 MCAR § 1.0224/11 MCAR § 1.0083 Driver background check. Before issuing a school bus driver's endorsement the Department of Public Safety shall determine whether the applicant has been convicted of a crime involving moral turpitude and shall also conduct a background check on the applicant's driving record.

~~EDU 225~~ 5 MCAR § 1.0225/11 MCAR § 1.0084 Requirements, renewal of driver license and school bus endorsement.

A. Requirements. Every four years a school bus driver applying for the renewal of his driver license and school bus endorsement shall pass ~~an~~ a written examination containing only such material as the Commissioner of Public Safety deems necessary to determine if the licensee is entitled to retain the endorsement previously issued.

B. Noncompliance. Failure to comply with any of the requirements of this ~~regulation~~ rule shall result in the cancellation or denial of the school bus driver's endorsement.

Department of Labor and Industry Occupational Safety and Health Division

Proposed Occupational Safety and Health Standards Governing Fire Protection

Notice of Hearing

The above-entitled standards were proposed for adoption on September 28, 1981 (6 S.R. 537). Written objections have been filed and a hearing requested. Therefore, notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 182.655 (1980) in Conference Room D, Fifth Floor, Veterans Service Building, 20 West 12th Street (Capitol Complex), St. Paul, Minnesota 55155, commencing at 9:30 a.m. on Tuesday, January 26, 1982.

All interested or affected persons will have an opportunity to participate concerning the proposed standards captioned above. 8 MCAR § 1.7324 B.5. requires those persons who wish to appear at the hearing to file a notice of intention to appear together with a statement of the position to be taken with regard to the issues and of the evidence to be adduced in support of the position. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to the presiding officer, Mr. Richard Luis, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within a period of time after the hearing as may be established by the presiding officer. Such statements may be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, please furnish at least three copies. In addition, in order to save time and avoid duplication, it is suggested that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing, which is legislative in type, shall be governed by Chapter 24 (Standards Promulgation) of the Rules and Regulations of the Department of Labor and Industry, Occupational Safety and Health Codes (8 MCAR §§ 1.7320-1.7329).

The proposed standards may be modified as a result of the hearing process. The department therefore strongly urges those who are potentially affected in any manner by the proposed standard to participate in the hearing process.

The proposed standard, 29 CFR Part 1910-Subpart L, was adopted by Federal OSHA on September 12, 1980, and is intended to minimize employee exposure to hazardous situations involving unwanted fires in workplaces and to provide the fire protection equipment and services for the safe evacuation or rescue of employees endangered by unwanted workplace fires. Three general areas are covered: portable fire protection equipment, fixed fire protection systems, and fire brigades. Objections have been raised and a hearing requested on the fire brigade portion of this standard. Section 1910.156, "Fire Brigades," contains requirements for the organization, training, physical capability, and personal protective equipment for fire brigades. When adopted by the State of Minnesota, Department of Labor and Industry, the provisions of this standard will also apply to public sector professional firefighters, both paid and volunteer. The hearing will be conducted to determine whether the proposed Occupational Safety and Health Standards are reasonably necessary or appropriate to provide safe and healthful employment and places of employment in Minnesota.

Copies of the proposed standard are now available and one free copy may be obtained by writing to the Department of Labor

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PROPOSED RULES

and Industry, Occupational Safety and Health Division, 444 Lafayette Road, St. Paul, Minnesota 55101. Copies will be available at the door on the date of the hearing.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as an individual:

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

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

Questions concerning lobbyists or their required registration should be directed to the State Ethical Practices Board, Room 41, State Office Building, St. Paul, Minnesota 55155, or telephone (612) 296-5616.

Russell B. Swanson
Commissioner of Labor & Industry

Department of Public Welfare Support Services Bureau

Proposed Repeal of Rules Governing Protection of Public Assistance Records (12 MCAR § 2.045), Contract with Nonprofit Medical and Hospital Service Organizations (12 MCAR § 2.046), and Pilot Dental Care Programs for Senior Citizens (12 MCAR § 2.059)

Notice of Intent to Repeal Rules without a Public Hearing

Notice is hereby given that the State Department of Public Welfare proposes to repeal the above-entitled rules without a public hearing. The commissioner has determined that the proposed repeal of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (1980).

Persons interested in these rules shall have 30 days to submit comment on the repeal of these rules. The repeal of these rules may not take place if the continued effectiveness of these rules is supported by the data and views submitted to the agency.

Unless seven or more persons submit written requests for a public hearing on the repeal of these rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Robert Hamper
DPW—4th Floor
Centennial Office Building
St. Paul, MN 55155
(612) 296-2794

Any request for a public hearing should specifically indicate which rule a hearing is desired on.

Authority for the repeal of these rules is contained in Minn. Stat. § 15.0412, subd. 1, and Minn. Stat. § 256.01, subd. 2. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the repeal of these rules has been prepared and is available from Robert Hamper, DPW 4th Floor, Centennial Office Building, St. Paul, MN 55155, 612/296-2794 upon request.

Before the final repeal of these rules without a public hearing, the rules proposed for repeal, this notice, the statement of need and reasonableness, all written comments received, and the final rules as repealed will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for repeal, should submit a written statement of such request to Robert Hamper.

The need to repeal the above-entitled rules is as follows:

1. 12 MCAR § 2.045—The substance of this rule, the privacy protection of public assistance records, has been incorporated into statutes by Minn. Stat. § 15.1691. The safeguards against disclosure of information concerning recipients of welfare and procedures relating to the administration of government records have been incorporated into Minn. Stat. §§ 15.1611 to 15.17. Therefore, this rule is no longer needed and should be repealed.

2. 12 MCAR § 2.046—The need for the guidelines contained in Rule 46 has been eliminated by the institution of the Medical Assistance and General Assistance Medical Care programs. Regulations governing provider and county participation in medical care are contained in Rules 47 and 58 and are governed by Minn. Stat. §§ 256B and 256D.03.

3. 12 MCAR § 2.059—The enabling legislation for this rule, Minnesota Laws of 1976, chapter 305, expired effective June 30, 1980. Rule 59 was established to implement the Pilot Dental Health Program. All requirements of the law have been met and a final report concerning the program has been sent to the Legislature.

Copies of this notice and the repeal of proposed rules are available and may be obtained by contacting Robert Hamper.

October 30, 1981

Arthur E. Noot
Commissioner of Public Welfare

Rules as Proposed

Repealer. Rules 12 MCAR §§ 2.045; 2.046; and 2.059 are repealed.

SUPREME COURT

Decisions Filed Friday, November 20, 1981

Compiled by John McCarthy, Clerk

51626/Sp. Gregory McGrath, *et al.*, Appellants, v. State of Minnesota, *et al.* Ramsey County.

Minnesota adopts the restrictive view that only allegations of constitutional violations which are clear and unambiguous shall be a basis for interrupting the arbitration process. In Minnesota, arbitrators are without authority to decide constitutional issues irrespective of contractual language.

A finding of immunity under 42 U.S.C. § 1983 (1976) actions requires a determination of the issue of good faith. The officer claiming good faith shall have the burden of proof. Determinations of an arbitrator, while not binding, may be considered by the court.

Affirmed in part, reversed in part, and remanded to the district court for further proceedings consistent with this opinion.
Todd, J.

81-106/Sp. State of Minnesota v. Raymond A. Case, Appellant. St. Louis County.

Evidence was sufficient to sustain defendant's convictions of assault in the second degree.

Sentencing Guidelines provide that in sentencing a defendant convicted of an offense for which there is a mandatory minimum term of 1 year and 1 day, the trial court should impose prison terms of either 18 months or the length provided in the appropriate cell of the grid, whichever is longer.

Affirmed. Wahl, J.

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SUPREME COURT

81-454/Sp. **Nadia Sawczuk, v. Special School District No. 1, self insured, Relator. Workers' Compensation Court of Appeals.**

An employee who was working irregular hours on November 16, 1976, when she sustained a back injury due to the cumulative effects of her work on a prior back injury, was entitled to compensation for temporary partial disability after September 1, 1977, when because of the November 16, 1976, injury she was unable to accept a full time position offered by her employer. Minn. Stat. § 176.011, subd. 3 (1980) was applicable to determine the employee's average daily wage on the date of her injury, but a computation based thereon which failed to take into account the employee's actual earnings in the 26 weeks of employment prior to the date of injury did not comply with that provision.

Affirmed in part, reversed in part and remanded. Wahl, J.

81-840/Sp. **State of Minnesota v. Mitchell Stumm, Appellant. Hennepin County.**

Presence of aggravating circumstances justified trial court's decision to impose longer prison term on defendant convicted of second-degree manslaughter in child abuse case.

Affirmed. Amdahl, J.

81-17/Sp. **State of Minnesota v. Robert Alvin Martinson, Appellant. Anoka County.**

Evidence was sufficient to support defendant's conviction for one count of criminal sexual conduct in the first degree.

Since defendant was never formally adjudicated guilty of other counts of which he was found guilty, question whether conviction of latter counts would be barred by Minn. Stat. § 609.04 (1980) is a hypothetical question which we will not decide.

Affirmed. Simonett, J.

81-275/Sp. **State of Minnesota v. Douglas Albert Lawrence, Appellant. Dakota County.**

Prosecution of defendant for possessing or concealing stolen property was not barred by the fact that defendant was the thief or by the fact that more than 3 years had gone by since defendant took possession of the property.

Affirmed. Simonett, J. Dissenting, Scott and Wahl, JJ.

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 Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Intent to Solicit Outside Opinions Regarding Proposed Amendments to Rules Governing the Examination of Land Surveyor Applicants and the Minimum Standards of Practice for Land Surveyors

Notice is hereby given that the board is seeking information or opinions from sources outside the agency in preparing to amend rules governing the examination of land surveyor applicants and the promulgation of new rules governing the minimum standards of practice for land surveyors. Revisions to the rule governing the examination of land surveyors will address the modification of mandatory education requirements and will incorporate specific language relating to education and experience requirements for admission to the eight-hour Land Surveyor-in-Training Examination and to the eight-hour Principles and Practice of Land Surveying Examination. The promulgation of these rules is authorized by Minnesota Statutes, § 326.06 which permits the board to adopt and enforce such rules as are necessary to administer the provisions of Minnesota Statutes, §§ 326.02-326.15.

The board 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 statements should be addressed to:

Lowell E. Torseth
Executive Secretary
Board of AELSLA
500 Metro Square
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours by telephone at (612) 296-2388 and in person at the above address.

All statements of information and comment shall be accepted until January 12, 1982. Any written material received by the department shall become part of the record in the event that the rules are promulgated.

Department of Commerce Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Meeting

The Board of Architecture, Engineering, Land Surveying and Landscape Architecture will meet at 9:30 a.m., Tuesday, December 15, 1981 at the Department of Commerce Hearing Room A, 5th Floor, Metro Square, St. Paul for the purpose of adopting a rule change setting the license fee for the period July 1, 1982 thru June 30, 1984.

Pollution Control Agency Water Quality Division

Notice of Intent to Solicit Outside Opinions Concerning Proposal of Rules Regarding Storage of Liquid Substances Capable of Polluting Waters of the State

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 revised rules covering storage of liquid substances capable of polluting waters of the state. These rules will include both above and below ground storage facilities. The promulgation of these rules is authorized by Minn. Stat. § 115.03, subd. 1 (1980) which permits the agency to adopt regulations and standards having the force and effect of law for the prevention, control, or abatement of water pollution. The statute provides that such regulations and standards may relate to any matter relevant to prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state.

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 Karen Vaughn 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 Paul Hoff at the address and telephone number listed below. Oral comments and inquiries will be accepted by Mrs Vaughn and Mr. Hoff during regular business hours over the telephone and in person at the agency offices as follows:

Karen Vaughn
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7313

Paul Hoff
Public Information Office
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7283

All statements of information and comment shall be accepted until January 8, 1982. Any written material received by the agency shall become a part of the record in the event that the rules are promulgated.

November 20, 1981

Louis J. Breimhurst
Executive Director

**Department of Public Safety
Bureau of Criminal Apprehension**

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Possession of Machine Guns and Short-barreled Shotguns Pursuant to Minn. Stat. § 609.67, subds. 3 and 4

Notice is hereby given that the State of Minnesota, Department of Public Safety, Division of Bureau of Criminal Apprehension is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the possession of machine guns and short-barreled shotguns. The promulgation of these rules is authorized by Minnesota Statutes, § 609.67, subds. 3 and 4, which permit and require the superintendent of the Bureau of Criminal Apprehension to establish rules concerning the possession of machine guns and short-barreled shotguns.

The Bureau of Criminal Apprehension 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 statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until January 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner
John D. Erskine, Superintendent

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