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STATE REGISTER

STATE OF MINNESOTA

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April 26, 1982

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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			
44	Monday April 19	Monday April 26	Monday May 3
45	Monday April 26	Monday May 3	Monday May 10
46	Monday May 3	Monday May 10	Monday May 17
47	Monday May 10	Monday May 17	Monday May 24

*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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How to Follow State Agency Rulemaking Action in the *State Register*

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

The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

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

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

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

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
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The listings are arranged in the same order as the table of contents of the MCAR.

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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, subsd. 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.

Board of Pharmacy

Proposed Amendments to Rules Relating to Licensure Fees, Internship, Pharmacy Equipment, Licensure Requirements, Continuing Education, Return of Drugs, Prescription Labeling, Controlled Substance Samples, Transfer of Prescriptions, Controlled Substances, Registration of Researchers, Prescription Order Communication, Emergency Kits, Labeling of Large Volume Parenterals, Waivers of Board Requirements, and Reorganization of Existing Rules

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Pharmacy proposes to amend the above-entitled rules without a public hearing. A copy of the proposed amendments is attached to this Notice.

The board has determined that the proposed adoption of these rules will be noncontroversial in nature. Therefore, this proceeding is being made under the provisions of Minn. Stat. § 15.0412, subd. 4h (1980) which provides for an expedited process for the adoption of noncontroversial administrative rule changes without the holding of a public hearing.

The public is hereby advised that:

1. There is a period of 30 days in which to submit comment on the proposed rules with the exception of the changes in 7 MCAR §§ 8.004 and 8.013 which have been approved and implemented pursuant to Minn. Stat. § 16A.028 and are included here for information purposes only.
2. No public hearing will be held on this matter unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. All comments and any written requests for a public hearing may be submitted to David E. Holmstrom, Executive Secretary, Minnesota Board of Pharmacy, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414;
4. The proposed amendments may be modified if modifications are supported by the data and views submitted, and do not result in a substantial change in the proposed language;
5. Authority to amend these rules is contained in Minn. Stat. §§ 151.06, subd. 1 and 152.02, subd. 7, 8, 9 and 12 (1980). Additionally, a statement of need and reasonableness which describes the need for and reasonableness of each provision of the proposed amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Mr. Holmstrom at the above-listed address;

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.

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6. Under this expedited procedure, the agency must submit its rules to the Attorney General for review of the form and legality of the rule change. Notice of the submission of this matter to the Attorney General will be made to all persons who request to be informed of the submission. Requests to be informed must be submitted to Mr. Holmstrom at the above-listed address;

7. If seven or more persons request a public hearing on this matter, notice of any such hearing will be given in the same manner as has this notice, and the agency will then proceed pursuant to Minn. Stat. § 15.0412, subds. 4-4g (1980);

8. Any rule change made pursuant to this proceeding shall be effective five days after publication in the *State Register* of notice of the adoption of the change.

April 7, 1982

David E. Holmstrom, Executive Secretary
Board of Pharmacy

Rules as Proposed

7 MCAR § 8.004 Pharmacy license; annual renewal date and fees. Each pharmacy license shall expire on June 30 of each year and shall be renewed annually by filing an application therefor, on or before June 1 of each year, together with a fee of ~~\$40~~ \$75. (~~Beginning January 1, 1978 said fee shall be \$50.~~) Renewal applications received on or after July 1 shall be subject to a late filing fee of \$20 in addition to the renewal fee.

7 MCAR § 8.010 ~~Minimum equipment required in~~ Required reference books and minimum equipment for pharmacies.

A. ~~Each pharmacy must have on file~~ Reference books. In addition to the most recent editions of the laws relating to the practice of pharmacy and the rules of the Board of Pharmacy (~~available through Documents Section, Department of Administration~~), ~~the latest edition or revision of the U.S. Pharmacopeia—National Formulary and~~, each pharmacy must have on file at least one current reference from each category of the following categories:

~~A.~~ 1. Pharmacology. Examples:

- ~~1.~~ a. Pharmacology in Medicine;
- ~~2.~~ b. Pharmacological Basis of Therapeutics;
- ~~3.~~ c. Merck Manual;
- ~~4.~~ d. Pharmindex;
- ~~5.~~ e. United States Dispensatory; and
- f. United States Pharmacopeia—Dispensing Information.

~~B.~~ 2. Dosage and toxicology. Examples:

- ~~1.~~ a. Hazards of Medications;
- ~~2.~~ b. American Hospital Formulary Service;
- ~~3.~~ c. Facts and Comparisons;
- ~~4.~~ d. Pediatric Dosage Handbook; and
- ~~5.~~ e. Evaluation of Drug Interactions (APHA).

~~C.~~ 3. Miscellaneous. Examples:

- ~~1.~~ a. Handbook of Non-Prescription Drugs;
- ~~2.~~ b. Modern Drug Encyclopedia;
- ~~3.~~ c. Physician's Desk Reference;
- ~~4.~~ d. Remington's Pharmaceutical Sciences; and
- e. United States Pharmacopeia—National Formulary.

An equivalent reference approved by the board in writing may be utilized in an appropriate category.

~~D.~~ ~~In addition,~~ B. Equipment. Each pharmacy must ~~also~~ have the following minimum equipment, clean and in good working order:

1. One prescription balance, as specified in ~~regulations~~ rules of the Department of ~~Weights and Measures, Public Service, Weights and Measures Division;~~

2. One set of accurate metric weights from 50 mg. to 100g.;

3. Measuring devices capable of accurately measuring volumes from 1 ml. to at least 500 ml.;

PROPOSED RULES

4. Mortars, pestles, spatulas, funnels, stirring rods, and heating apparatus as necessary to meet the needs of that pharmacy;

5. ~~Suitable refrigerator for drug storage with a thermometer;~~ Refrigerator with a thermometer suitable for drug storage;

6. Sink with hot and cold running water; and

7. Toilet with a handwashing lavatory and disposable towels in a location which is reasonably accessible.

7 MCAR § 8.013 Drug manufacturer or wholesaler license. Every person engaged in manufacturing or selling of drugs, medicines, chemicals, or poisons for medicinal purposes other than to the consuming public shall annually be licensed by the board. Upon the filing of an application therefor, and upon payment of a fee of ~~\$50~~ \$100, the board may issue a license in such form as it may prescribe to ~~such~~ the manufacturer or wholesaler. ~~(Beginning January 1, 1978 said fee shall be \$75.)~~ Such The license shall be exposed in a conspicuous place in the manufacturer's or wholesaler's place of business for which it is issued, shall expire on ~~the 1st day of June 1~~ of each year, and shall be renewed annually upon the filing of an application therefor, on or before May 1 of each year together with a fee of ~~\$50~~ \$100. ~~(Beginning January 1, 1978 said fee shall be \$75.)~~ Renewal applications received after June 1 shall be subject to a late filing fee of \$25 in addition to the renewal fee.

7 MCAR § 8.026 Licensure.

A. Applicants for licensure by examination shall submit a completed application for examination including affidavits of internship, a copy of applicant's birth certificate and a recent photograph. ~~Applicants not citizens of the United States must have filed and proved their intention of becoming citizens.~~ All applicants shall show evidence of graduation with a bachelor of science degree or doctor of pharmacy degree, as the first professional undergraduate degree in pharmacy, from a college of pharmacy or a department of pharmacy of a university approved by the board and meeting at least the minimum standards set by the American Council on Pharmaceutical Education in the current edition of its accreditation manual. Such evidence shall be shown by submitting a final transcript showing the date on which degree was conferred. The above listed documents together with a check for \$75 must be submitted to the board at least 30 days prior to the examination.

B.-D. [Unchanged.]

7 MCAR § 8.027 Continuing education requirements.

A. [Unchanged.]

B. ~~Requirements for Continuing Pharmaceutical Education~~ Minimum hours required and reporting. Commencing March 4, 1975, no annual license renewal shall be issued to a pharmacist pursuant to Minn. Stat. § 151.13 until such pharmacist shall have submitted to the board satisfactory evidence that he or she has completed ~~an accredited program~~ at least 30 hours of approved continuing education during the previous two-year period. Thereafter, each pharmacist shall submit such evidence every two years. Beginning with the 1981-1983 reporting period, participation in continuing education shall be reported on October 1 of each even-numbered year. The 1981-1983 reporting requirement will be prorated from March 1, 1981 to October 1, 1982 to require 24 hours of participation reportable October 1, 1982. The board may grant a pharmacist, upon application, an extension of time not to exceed one year to comply with the requirements of ~~this rule B.~~ Such extension shall not relieve the pharmacist from complying with the continuing education requirements for any other two-year period.

C.-J. [Unchanged.]

7 MCAR § 8.032 Return of drugs and devices.

A. [Unchanged.]

B. ~~Drugs and prescribed medications~~ from nursing homes may be returned to the dispensing pharmacy provided that if:

1. The consultant pharmacist can assure proper storage conditions for the ~~drug~~ drugs in the facility as specified in the 'United States Pharmacopeia,' (Rockville, Maryland: United States Pharmacopeial Convention, Inc.);

2. The ~~drugs and prescribed medicines~~ are returned to the pharmacy which dispensed the ~~drug or prescribed medicine;~~ drugs;

3. The ~~drugs and prescribed medications~~ are received by the pharmacy in the original manufacturer's packaging or pharmacist packager's single unit-dose, single unit-of-use, or strip packaging indicating with each tablet or capsule individually

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wrapped and labeled, or in blister-cards, which indicate the drug name and strength, the manufacturer's or packager's name and the manufacturer's or packager's lot or batch numbers. Drugs packaged by a pharmacy may be returned only if the pharmacy can demonstrate to the board that its packaging material and procedures will provide a package that will meet or exceed the criteria for class B packaging established by the 'United States Pharmacopeia,' (Rockville, Maryland: United States Pharmacopeial Convention, Inc.), and that procedures have been developed and implemented to prevent the commingling of dosage units of different lot numbers; and

4. The integrity of such packaging remains intact, and.

~~5. No reconstituted drugs, drugs requiring refrigeration, or controlled substances may be so returned.~~

C. [Unchanged.]

7 MCAR § 8.040 Prescription labeling. All drugs dispensed to or for a patient (other than an in-patient of a hospital) shall be labeled with the following information:

A. Identification Name, address, and telephone number of pharmacy.

B.-1. [Unchanged.]

7 MCAR § 8.049 Transfer of prescriptions between pharmacies.

A. Authorization to dispense a transferred prescription. A prescription label, a written copy of the prescription, or a telephone report of a prescription shall be used for information purposes only and has no legal status as a valid prescription order. A pharmacist who receives a label, copy, or report of a prescription shall contact the prescribing practitioner for authorization to dispense the prescription.

B. Conditions of transfer. Pharmacies may transfer original prescription information for the purpose of refilling a prescription if the information is communicated directly by one licensed pharmacist to another.

C. Duties of transferring pharmacist. The transferring pharmacist shall:

1. Write the word "VOID" on the face of the original prescription to make the prescription invalid;
2. Record on the reverse side of the invalidated prescription the name and address of the receiving pharmacy; and
3. Record the date of the transfer.

For controlled substances in Schedules III-V, the transferring pharmacist shall also record on the reverse side of the invalidated prescription the Drug Enforcement Administration registration number of the receiving pharmacy and the names of the receiving and transferring pharmacists.

D. Duties of receiving pharmacist. The pharmacist receiving the transferred prescription information shall:

1. Write the word "transfer," "copy," or a word of similar import on the face of the transferred prescription; and
2. Provide all information required to be on a prescription pursuant to the law and include:
 - a. The date of issuance and of filing of the original prescription;
 - b. The original number of refills authorized;
 - c. The number of valid refills remaining;
 - d. The date of last refill from original prescription;
 - e. The original prescription number from which the prescription information was transferred; and

f. The transferring pharmacy's name and address and, in the case of controlled substances in Schedules III-V, the transferring pharmacy's Drug Enforcement Administration registration number and name of transferring pharmacist.

E. Retention of prescription. The transferring pharmacist shall keep the original prescription for at least two years from the date of last filling. The receiving pharmacist shall keep the transferred prescription for at least two years from the date of last filling.

F. Notice to patient of prescription invalidation. The transferring pharmacist shall inform the patient that the original prescription has been invalidated at the pharmacy from which it was obtained.

G. Computerized prescription record keeping systems. Computerized prescription record keeping systems must satisfy all

PROPOSED RULES

the requirements of C.-E. including invalidation of the original prescription even when the prescription is transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership.

H. Transfer of prescription by presentation of container. When the transfer of original prescription information is initiated by the receipt of a prescription container previously filled at another pharmacy, the receiving pharmacist shall notify the transferring pharmacist that the prescription is being transferred. All information required by C.-E. shall be exchanged.

I. Unprofessional conduct. It is grounds for a charge of unprofessional conduct for a pharmacist to refuse to provide a transfer of original prescription information to another pharmacist who is acting on behalf of a patient and who is making a legal request for such information under this rule.

J. Schedule II controlled substances. Nothing in this rule authorizes the transfer of prescriptions for Schedule II controlled substances. A new written prescription personally signed by the prescribing practitioner is required prior to dispensing a Schedule II controlled substance.

7 MCAR § 8.050 Drug identification.

A. Requirement. The finished dosage form of any legend drug in solid oral dosage form manufactured, packaged, or distributed for sale in this state after January 1, 1983 shall be clearly marked or imprinted with a symbol, number, name, word, letter, national drug code number, or other mark identifying the drug and the manufacturer or distributor of the drug.

B. Imprints; publication and notice to board. Each manufacturer and distributor shall publish and provide to the board printed material which will identify each imprint or mark currently used by the manufacturer or distributor. The board shall also be notified of any changes in the published list.

C. Exemptions. Drug manufacturers, packagers, or distributors seeking an exemption from the requirements of A. and B. shall submit to the board a documentation of facts related to the product which would make compliance with the imprinting required by Minn. Stat. § 151.361, subd. 2 impossible. The documentation must include specifics on the physical characteristics of the drug upon which the exemption request is based.

7 MCAR § 8.051 Controlled substances. The following substances are, because of their abuse potential for abuse, defined and controlled in the following schedules and are, therefore, subject to the provisions of Minn. Stat. § ch. 152.

A. The following items are listed in Schedule I:

1. Any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol, Allylprodine, Alphacetylmethadol, Alphameprodine, Alphamethadol, Benzethidine, Betacetylmethadol, Betameprodine, Betamethadol, Betaprodine, Clonitazene, Dextromoramide, ~~Dextrophan~~, Diampromide, Diethylambutene, Difenoxin, Dimenoxadol, Dimepheptanol, Dimethylambutene, Dioxaphetyl butyrate, Dipipanone, Ethylmethylthiambutene, Etonitazene, Etoxadine, Furethidine, Hydroxypethidine, Ketobemidone, Levomoramide, Levophenacymorphan, Methyl substituted isomers of Fentanyl, Morpheridine, ~~Norcymethadol~~, Noracetylmethadol, Norlevorphanol, Normethadone, Norpipanone, Phenadoxone, Phenampromide, Phenomorphan, Phenoperidine, Piritramide, Proheptazine, Propiridine, Propiram, Racemoramide, Sufentanil, Tilidine, Trimeperidine.

For the purposes of this paragraph only, the term "isomer" includes the optical, positional, and geometric isomers.

2. [Unchanged.]

3. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Some examples of common names,
trade names, or names of products which
contain a controlled substance.

Statutory Name

a. 3, 4-Methylenedioxy Amphetamine

MDA

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PROPOSED RULES

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<u>s.</u> Psilocybin	
<u>t.</u> Psilocyn	
<u>u.</u> Tetrahydrocannabinols	THC
<u>v.</u> 1-[1(2Thienyl) Cyclohexy] Piperidine	
<u>w.</u> 1-(1-phenylcyclohexyl) pyrrolidine	
4.-5. [Unchanged.]	

B. The following items are listed in Schedule II:

1. [Unchanged.]

2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

Statutory Name	Some examples of common names, trade names, or names of products which contain a controlled substance.
<u>a.</u> Alphaprodine	Nisentil
<u>b.</u> Anileridine	Leritine
<u>c.</u> Bezitramide	
<u>d.</u> Bulk Dextropropoxyphene	
<u>e.</u> Dihydrocodeine	Paracodin
<u>f.</u> Dihydromorphinone	Dilaudid
<u>g.</u> Diphenoxylate	
<u>h.</u> Fentanyl	Sublimaze, Innovar
<u>i.</u> Isomethadone	
<u>j.</u> Levomethorphan	
<u>k.</u> Levorphanol	Levo-Dromoran
<u>l.</u> Metazocine	
<u>m.</u> Methadone	Dolophine, Amidone, Adanon
<u>n.</u> Methadone-Intermediate 4-cyano-2-dimethylamino-4, 4-diphenylbutane	

- o. Moramide-Intermediate
2-methyl-3-morpholino-1,
1-diphenyl-propane-
carboxylic acid
- p. Pethidine
- q. Pethidine-Intermediate-A,
4-cyano-1-methyl-4-
phenylpiperidine
- r. Pethidine-Intermediate-B,
ethyl-4-phenylpiperidine-4-
carboxylate
- s. Pethidine-Intermediate-C,
1-methyl-4-phenylpiperidine-
4-carboxylic acid
- t. Phenazocine
- u. Piminodine
- v. Racemethorphan
- w. Racemorphan

Meperidine, Demerol,
Isonipeccaine, Mepadin,
Mepergan

Prinadol

Alvodine

Dromoran

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

Statutory Name

- a. Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- b. Methamphetamine, its salts, optical isomers, and salts of its optical isomers;
- c. Phenmetrazine and its salts;
- d. Methylphenidate.

Some examples of common names, trade names, or names of products which contain a controlled substance.

Dexedrine, Dexamyl, Benzedrine
Raphetamine, Biphphetamine,
Desoxyn, Methedrine, Drinalfa,
Desoxyephedrine Hydrochloride, Syndrox,
Efroxine, Norodin, Obedrin, Ambar
Preludin
Ritalin, Plimasin, Ritonin

4. [Unchanged.]

5. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Immediate precursor to amphetamine and methamphetamine:

Statutory Name

(1) Phenylacetone

Some trade or other names

phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone

b. Immediate precursor to phencyclidine (PCP):

(1) 1-phenylcyclohexylamine

(2) 1-piperidinocyclohexane carbonitrile (PCC)

C. The following items are listed in Schedule III:

1.-2. [Unchanged.]

3. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

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

Statutory Name

- a. Benzphetamine
- b. Chlorphentermine
- c. Clortermine
- ~~Mazindol~~
- d. Phendimetrazine

4.-5. [Unchanged.]

D. The following items are listed in Schedule IV:

Statutory Name

- 1. Alprazolam
- ~~2.~~ Barbitol
- ~~3.~~ Chloral betaine
- ~~4.~~ Chloral hydrate
- ~~5.~~ Chlordiazepoxide
- ~~6.~~ Clonazepam
- ~~7.~~ Clorazepate
- ~~8.~~ Diazepam
- ~~9.~~ Diethylpropion
- ~~10.~~ Ethchlorvynol
- ~~11.~~ Ethinamate
- ~~12.~~ Fenfluramine
- ~~13.~~ Flurazepam
- 14. Halazepam
- ~~15.~~ Lorazepam
- 16. Mazindol
- ~~17.~~ Mebutamate
- ~~18.~~ Meprobamate, except when in combination with the following drugs in the following or lower concentrations:
 - conjugated estrogens 0.4 mg.
 - tridihexethyl chloride 25 mg
 - pentaerythritol tetranitrate 20 mg
- ~~19.~~ Methohexital
- ~~20.~~ Methylphenobarbital
- ~~21.~~ Oxazepam
- ~~22.~~ Paraldehyde
- ~~23.~~ Pemoline
- ~~24.~~ Pentazocine
- ~~25.~~ Petrichloral
- ~~26.~~ Phenobarbital
- ~~27.~~ Phentermine
- 28. Pipradrol
- ~~29.~~ Prazepam
- ~~30.~~ Propoxyphene

Some examples of common names, trade names, or names of products which contain a controlled substance.

Didrex
Pre-Sate
Voranyl
~~Sanorex (Sandoz)~~
Plegine, Stim-35, Melfiant, Bacarate

Some examples of common names, trade names, or names of products which contain a controlled substance.

~~Xanax~~
Barbitone
Beta-Chlor
Noctec, Somnos
Librium, Libritabs
Clonopin
Tranxene
Valium
Tenuate, Tepanil
Placidyl
Valmid
Pondamin
Dalmane
~~Paxipam~~
~~Ativan~~
~~Sanorex~~
Equanil, Miltown, Equagesic, Equalysen

Brevital
Mebral, Mephobarbital
Serax
Paral
Cylert
Talwin
Periclor
Luminal, Phenobarbitone, Eskabarb
Wilpo, Fastin, Ionamin

~~Centrax~~
Darvon

31. SPA (/1/-1-Dimethylamino-1, 2-diphenylethane)

32. Temazepam

Restoril

E.-F. [Unchanged.]

7 MCAR § 8.052 Partial filling of prescriptions for Schedule II controlled substances.

A. Authorization. Prescriptions for Schedule II controlled substances written for patients in long term care facilities may be filled in partial quantities, including individual dosage units.

B. Records. For each partial filling, the dispensing pharmacist shall record on the back of the prescription, or on another appropriate record uniformly maintained and readily retrievable, the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.

C. Quantity dispensed. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed.

D. Validity of prescription. Schedule II prescriptions for patients in a long term care facility shall be valid for a period not to exceed 60 days from the issue date unless terminated sooner by the discontinuance of medication.

E. Computerization of information. Information pertaining to current Schedule II prescriptions for patients in a long term care facility may be maintained in a computerized record keeping system if the system has the capability to permit:

1. Output by display or printout of the original prescription number; date of issue; identification of prescribing individual practitioner; identification of patient; identification of long term care facility; identification of medication authorized, including dosage form strength and quantity; listing of partial fillings that have been dispensed under each prescription; and the information required in B.;

2. Immediate or real time updating of the prescription record each time a partial filling of the prescription is conducted;
and

3. Retrieval of partially filled Schedule II prescription information, the same as required by federal law for Schedule III and IV prescription refill information.

7 MCAR § 8.053 Registration of controlled substance researchers.

A. Application; fee; license. Every person who engages in research, teaching, or educational projects involving the use, study, or testing of controlled substances shall annually, on or before June 1 of each year, apply for registration by the board. Upon the filing of an application therefore, and upon payment of the fee of \$25, the board shall issue a license.

B. Exemption. Registration under A. shall not be required of any physician conducting research involving controlled substances who is otherwise licensed by the state and who has complied with federal laws covering research projects of controlled substances.

7 MCAR § 8.054 Controlled substance samples. A manufacturer, distributor, or agent of a manufacturer or distributor of a controlled substance as defined in Minn. Stat. § 152.01, subd. 4 or 7 MCAR § 8.051, may not distribute controlled substance samples directly or by other means without charge or at a charge below fair market value unless a practitioner signs a written request for a designated quantity of the controlled substance. The request must also indicate that the controlled substance is to be distributed to the practitioner by the manufacturer, distributor, or agent or distributed to a pharmacist for dispensing to a patient.

7 MCAR § 8.061 Internship. ~~A regulation for~~ The purpose of defining this rule is to define and regulating regulate the internship experience of prospective pharmacists as required by Minn. Stat. §§ 151.10 and 151.10I. This regulation rule shall take effect immediately but the provisions contained herein shall not nullify any period of internship service by any individual previous to its adoption provided such period of internship is filed in a proper manner with the secretary of the Board of Pharmacy.

A. [Unchanged.]

B. Registration and reporting.

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

1.-3. [Unchanged.]

4. The intern may be required to maintain additional records of his professional activities. ~~Such~~ The records, which shall be submitted after the completion of each quarter of internship, are to be prescribed by the board for the purpose of recording details of the scope of internship experience and may include examinations to test the competency of interns. ~~Such~~ The examinations shall be administered approximately quarterly at ~~such~~ times and locations as the board may designate. These examinations shall be of a pre-test and post-test nature bracketing such segments of the intern's experience as the board deems appropriate. ~~Interns completing the first quarter of their internship experience will be required to attain a score of 65% on the post test examination before credit will be granted by the board for that experience. Interns participating in subsequent quarters will be required to attain a score of 75% on the post-test examination before credit will be granted by the board for that experience.~~ Interns will be required to attain a score of 75 percent on the post-test examination as verification of having met the minimum objectives of an internship before qualifying to sit for the examination for licensure as a pharmacist.

5. No person who terminates his efforts toward the completion of the educational or other prerequisites of licensure is entitled to the continued privileges of internship registration.

6. [Unchanged.]

C. Training requirements. The intent of this regulation rule is to provide a proper preceptor-intern (teacher-student) relationship within the context of the employer-employee relationship; provide a broad base of internship experience and to supplement didactic academic training in a manner which prepares the intern for all aspects of the practice of pharmacy.

1. Nothing in this regulation rule shall imply that the standards described herein are acceptable to other states on a reciprocal basis.

2. When an intern desires to obtain credit for training received in a state other than Minnesota, he shall abide by all the provisions of the internship regulations rules in that state, and shall provide evidence from the state's Board of Pharmacy that his internship training has been completed in compliance with the internship standards of the National Association of Boards of Pharmacy and with the standards herein provided. Where a possible conflict may exist between the provisions of this regulation rule and the requirements of the state in which the intern is training the intern shall contact the secretary of the State Board of Pharmacy in his state and outline any possible problem.

3. No more than one intern shall be trained by a preceptor at one time.

4. Upon registration, interns and preceptors will be furnished guides and objectives for internship training. The guides are furnished to suggest appropriate types and order of training experience and shall be used to ~~insure~~ ensure that the intern's practical experiences are commensurate with his educational level, and broad in scope.

5. Applicants for licensure as pharmacists who are examined and licensed after September 17, 1973, shall submit evidence that they have successfully completed not less than 1,500 hours of internship under the instruction and supervision of a preceptor. Credit for internship shall be granted only to registered interns who have ~~begun the fourth year~~ completed the third year of the five-year pharmacy curriculum, provided, however, that:

a. 400 hours of internship credit may be acquired by any combination of the following: internship experience gained concurrent with attendance at a college of pharmacy during the fourth and fifth year, or participation in approved clinical pharmacy programs or approved internship demonstration projects.

b. ~~At least 520 hours of the required internship time shall be completed after graduation from a college of pharmacy approved by the board and shall consist of advanced internship training involving the compounding and dispensing of drugs and drug consultation with patients.~~

e- Not more than 700 hours of internship credit may be given during any internship quarter.

D.-E. [Unchanged.]

7 MCAR § 8.071 Prescription order communication.

A. ~~Pharmacists and pharmacies shall accept orders for dispensing and refilling only if such orders are communicated directly from the prescriber or transmitted through his designated agent. Such an agent shall be an employee of the physician or a nurse employed by the facility and designated in writing by the prescriber as authorized to communicate, either orally or in writing, the prescriber's medication orders to a pharmacy.~~ Notwithstanding any other provisions of 7 MCAR §§ 8.001-8.117, a licensed pharmacist, registered nurse, or licensed practical nurse who is employed by a duly licensed skilled care, intermediate care, or other licensed health care facility, and who is authorized by the facility's administrator, may transmit to the pharmacy provider a prescription lawfully ordered by a practitioner authorized to prescribe drugs or devices pursuant to Minn. Stat. § 151.37. The pharmacy provider shall record on the prescription the name of the person who transmits the order in addition to the other required information. This paragraph shall not apply to orders for Schedule II controlled substances as defined by 7 MCAR § 8.051 B.

B.-C. [Unchanged.]

7 MCAR § 8.074 Drugs for use in emergency kits.

A. Authorization upon request. Pharmacists may provide, upon a written or oral ~~order~~ request from a licensed practitioner, limited supplies of drugs for use in an emergency kit.

B. Emergency drug supplies. Only emergency drug supplies, ~~as~~ determined by the patient care policy committee or pharmaceutical service committee to be necessary for patient care in life threatening emergencies, may be made available. The drugs in the emergency kit are the responsibility of the pharmacist and, therefore, shall not be used or altered in any way except as outlined herein. ~~Such~~ The emergency drug supplies shall comply with the following:

~~A. such~~ 1. The drugs shall be limited to the extent possible to a maximum of six single doses, ~~of any one emergency drug~~ in either sealed ampuls, vials, or prefilled syringes to the extent possible, of any one emergency drug. If an emergency drug is not available in parenteral form, a supply of the drug in inhalation or sublingual form may be obtained in the smallest sealed manufacturer's package. Inclusion of other oral legend drugs is ~~to be~~ discouraged. All drugs in this supply shall be properly labeled;

~~B. 2.~~ 2. The emergency drug supply shall be stored in a portable container which is sealed ~~in such a manner that~~ with a tamper-proof seal that must be broken to gain access to the drugs, and shall be placed in a locked area;

~~C. 3.~~ 3. The pharmacist shall be notified by the health care facility when drugs from the emergency kit have been used ~~from the emergency kit~~ or when the seal has been broken;

~~D. 4.~~ 4. Drugs used from the kit shall be replaced within 72 hours and the supply shall be resealed;

~~E. 5.~~ 5. The pharmacist shall see that the contents of the kit are accurately listed ~~outside of~~ on the container;

~~F. 6.~~ 6. The supply shall be checked and inventoried monthly by the pharmacist who is responsible for control of the kit.

C. Controlled substances. Emergency kits may contain limited supplies of controlled substances only if:

1. The controlled substances are supplied by a licensed pharmacy duly registered with the Federal Drug Enforcement Administration;

2. The emergency kit is kept in a locked medicine room or medicine cabinet;

3. Access to the emergency kit is limited to the following individuals:

a. A licensed professional nurse who is employed by the facility and who has been directed by a physician to administer a drug from the kit, or

b. A consultant pharmacist or other licensed pharmacist designated by the facility's pharmaceutical services committee, or

c. A licensed medical practitioner;

4. The emergency kit does not contain more than six single doses of any controlled substance narcotic analgesic;

5. The dispensing pharmacy keeps a complete record of each controlled substance stored in the emergency kit, including the name of the drug, the strength of the drug, and the number of doses provided;

6. The facility keeps a complete record of the use of controlled substances from the kit, including the patient's name, the date of use, the name of the drug used, the strength of the drug, the number of doses used, and the signature of the person administering the dose;

7. The controlled substances stored in the emergency kit are used only in a situation deemed an emergency by a licensed practitioner in conformity with the following provisions:

a. Immediate administration of the controlled substance is necessary for the proper treatment of the intended ultimate user;

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PROPOSED RULES

b. No appropriate alternative treatment is available, including administration of a drug which is not a controlled substance; and

c. It is not reasonably possible for the prescribing practitioner to provide prior to administration a written prescription order to be presented to a pharmacist for dispensing of the substance.

D. Excluded controlled substances. Controlled substance sedatives and stimulants may not be included in emergency kits.

E. Penalty. If any of the provisions of this rule are violated, the board may suspend or revoke a facility's right to maintain an emergency kit of drug supplies.

7 MCAR § 8.088 Labeling.

A.-C. [Unchanged.]

D. Whenever a drug is added to a parenteral solution a distinctive supplementary label shall be firmly affixed to the container. The label shall indicate the name and amount of drug added, the date and time of the addition, the date and time of the expiration of the admixture, and the identity of the person preparing or certifying the integrity of the admixture.

1. It is recommended that all intravenous admixtures be labeled with the following information:

a. Name of solution, lot number, and volume of solution;

b. Patient's name;

c. Bottle sequence number or other control number system;

d. Name and quantity of each additive;

e. Date of preparation;

f. Beyond-use time and date of intravenous admixture; and

g. Ancillary precaution labels.

2. The information in D.1., except for lot number, should be recorded on a supplemental label. If the large volume parenteral contains no additives, the same label may be used, omitting those items which do not apply. If, at some later time an additive might be added, than a suitable space should be available for recording the additive.

3. The supplemental label should be placed so as to permit visual inspection of the infusion contents and to allow the name, type of solution, and lot number on the manufacturer's label to read.

4. The hospital pharmacy service is responsible for labeling all medications.

7 MCAR § 8.118 Variances and waivers.

A. Right to request variance or waiver. A person subject to the rules of the Board of Pharmacy may request that the board grant a variance or waiver from any rule of the Board of Pharmacy.

B. Submission and contents of request. A request for a variance or waiver shall be submitted to the board in writing. Each request shall contain the following information:

1. The specific rule for which the variance or waiver is requested;

2. The reason for the request;

3. The alternative measures that will be taken if a variance or waiver is granted;

4. The length of time for which a variance or waiver is requested; and

5. Other relevant information necessary to properly evaluate the request for the variance or waiver.

C. Decision on the variance or waiver. The board shall grant a variance or waiver if it determines that:

1. The variance or waiver will not adversely affect, directly or indirectly, the health, safety, or well-being of the public;

2. The alternative measures to be taken, if any, are equivalent or superior to those prescribed in the rule for which the variance or waiver is requested; and

3. Compliance with the rule for which the variance or waiver is requested would not impose an undue burden upon the applicant.

The board shall deny, revoke, or refuse to renew a variance or waiver if the board determines that 1., 2., or 3. have not been met.

D. Notification. The applicant shall be notified in writing of the board's decision. If a variance or waiver is granted, the notification shall specify the period of time for which the variance or waiver will be effective and the alternative measures or conditions, if any, to be met by the applicant.

E. Renewal. Any request for the renewal of a variance or waiver shall be submitted in writing prior to its expiration date. Renewal requests shall contain the information specified in B. A variance or waiver shall be renewed by the board if the applicant continues to satisfy the criteria contained in C.1.-3. and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance or waiver was granted.

F. Appeal procedure. An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested case hearing under the provisions of the Administrative Procedure Act, Minn. Stat. §§ 15.0418-15.0426. The applicant shall submit, within 15 days of the receipt of the board's decision, a written request for a hearing. The request for hearing shall set forth in detail the reasons for a reversal or modification of the board's decision. At the hearing, the applicant shall have the burden of proving that he or she satisfied the criteria specified in C.1., 2. and 3.

Renumbering. Renumber 7 MCAR § 8.041 as 7 MCAR § 8.042.

Department of Public Safety Fire Marshal Division

Proposed Rules Governing Amendments to the *Uniform Fire Code*

Notice of Intent to Adopt Rules without a Hearing

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

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 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 period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. § 15.0412, subdivision 4-4f.

The proposed rules update the *Minnesota Uniform Fire Code* to the 1979 edition of the *Uniform Fire Code, Western Fire Chiefs*, and update the *National Fire Codes* to the 1981 edition. The rules published at 6 S.R. 43 (*State Register*, April 26, 1982) are amendments to these codes, in order to make it a state rather than model code and to make it dovetail with state law, the *State Building Code* and customary state/local jurisdictions and relationships.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

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

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

PROPOSED RULES

The department's authority to adopt the proposed rules is contained in Minn. Stat. § 299F.011. 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 the Department of Public Safety 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 the above address.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than \$250, not including *his own* 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. 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.

The department estimates 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 Minnesota Statutes Section 15.0412, subdivision 7.

John P. Sopsic
Commissioner of public safety

Rules as Proposed (all new material)

11 MCAR § 1.5101 Purpose. The purpose of 11 MCAR §§ 1.5101-1.5150 is to adopt uniform fire safety standards governing the maintenance of buildings and premises; regulate the storage, use, and handling of dangerous and hazardous materials, substances, and processes; and regulate the maintenance of adequate egress facilities.

11 MCAR § 1.5102 Scope. The scope of 11 MCAR §§ 1.5101-1.5150 is intended to be consistent with Minn. Stat. § 299F.011.

11 MCAR § 1.5103 Rules and standards adopted by reference. The *Uniform Fire Code*, 1979 edition, as promulgated by the International Conference of Building Officials and the Western Fire Chiefs Association is incorporated by reference and hereby made part of Minnesota rules pursuant to statutory authority, subject to the alterations and amendments in 11 MCAR §§ 1.5104-1.5150.

11 MCAR § 1.5104 Sec. 1.101 of the *Uniform Fire Code*. Sec. 1.101 of the *Uniform Fire Code* is amended to read:

Sec. 1.101. This code shall be known as the *MINNESOTA UNIFORM FIRE CODE*, may be cited as such, and will be referred to herein as "this code."

11 MCAR § 1.5105 Sec. 2.101 of the *Uniform Fire Code*. Sec. 2.101 of the *Uniform Fire Code* is amended to read:

Sec. 2.101. The state fire marshal may, and the chief of any jurisdiction adopting this code shall, administer and enforce this code and all laws of the state pertaining to:

- (a) The prevention of fires.
- (b) The suppression or extinguishing of dangerous or hazardous fires.
- (c) The storage, use and handling of explosive, flammable, toxic, corrosive and other hazardous gaseous, solid and liquid materials.
- (d) The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipment.
- (e) The maintenance and regulation of fire escapes.
- (f) The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction.
- (g) The means and adequacy of each exit in the event of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, class B supervised living facilities, churches, halls, theaters, amphitheatres, and all other places in which people work, live, or congregate from time to time for any purpose.

(h) The investigation of the cause, origin and circumstances of fire.

11 MCAR § 1.5106 Sec. 2.102 of the *Uniform Fire Code*. Sec. 2.102 of the *Uniform Fire Code* is deleted and replaced with the following:

Sec. 2.102 (a) any jurisdiction which adopts this code is authorized to make amendments, by ordinance, to Article 2 hereof to provide for a system of enforcement and administration within the jurisdiction. These amendments shall be in the form of additions only, and none of the existing provisions of Article 2 shall be changed nor shall any amendment be made which interferes with the intent of the existing provisions nor the state fire marshal's duties and powers thereunder.

(b) Any jurisdiction which adopts this code is authorized to adopt, by ordinance, rules for the prevention and control of fires and fire hazards as may be necessary from time to time, to carry out the intent of this code, and which may be more restrictive than this code when the rules are necessary to protect life or property in the community. The governing body may adopt this code by ordinance. One certified copy of the ordinance containing the rules shall be filed with the clerk of the jurisdiction and shall be in effect immediately thereafter, and additional copies shall be kept in the office of the fire department for distribution to the public.

(c) Wherever the term "state fire marshal" appears in Article 1, it shall also include the chief of any jurisdiction adopting this code.

(d) Wherever the term "chief" appears in Articles 2-36 or in the Appendix of this code, it shall mean state fire marshal except that it shall also include the chief of any jurisdiction adopting this code.

11 MCAR § 1.5107 Sec. 2.103 of the *Uniform Fire Code*. Sec. 2.103 of the *Uniform Fire Code* is deleted in its entirety.

11 MCAR § 1.5108 Sec. 2.104 of the *Uniform Fire Code*. Sec. 2.104 of the *Uniform Fire Code* is deleted in its entirety.

11 MCAR § 1.5109 Sec. 2.105 of the *Uniform Fire Code*. Sec. 2.105 of the *Uniform Fire Code* is deleted in its entirety.

11 MCAR § 1.5110 Sec. 2.202 of the *Uniform Fire Code*. Sec. 2.202 of the *Uniform Fire Code* is amended to read:

Sec. 2.202. (a) The fire department of any jurisdiction adopting this code shall investigate promptly the cause, origin and circumstances of each and every fire occurring in the municipality involving loss of life or injury to person or destruction or damage to property, and if it appears to the members of the fire department making the investigation that such fire is of suspicious origin, they shall then take immediate charge of all physical evidence relating to the cause of fire, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall cooperate with the authorities in the collection of evidence and in the prosecution of the case. The chief shall make a report in writing to the state fire marshal of all facts and findings relative to each investigation.

(b) The police department may assist the fire department in its investigation whenever requested to do so.

11 MCAR § 1.5111 Sec. 2.205 of the *Uniform Fire Code*. Sec. 2.205 of the *Uniform Fire Code* is amended to read:

Sec. 2.205 Any order or notice authorized or required by this code shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by oral notification, personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by mail to his last known address. Orders or notices given orally shall be confirmed by service in writing as herein provided.

11 MCAR § 1.5112 Sec. 2.302 of the *Uniform Fire Code*. Sec. 2.302 of the *Uniform Fire Code* is deleted in its entirety.

11 MCAR § 1.5113 Sec. 2.303 of the *Uniform Fire Code*. Sec. 2.303, paragraph (b), of the *Uniform Fire Code* is amended to read:

Sec. 2.303. (b) Recognized Standards. Whenever this code is inapplicable for any reason to any situation involving the protection of persons and property from the hazards of fire and explosion, the materials, methods of construction, installations, practices or operations necessary to provide such protections shall, to a reasonable degree, be in accordance with nationally recognized and accepted standards, principles and tests and generally recognized and well-established methods of fire prevention and control, as set forth in the '*National Fire Codes, 1981*' issued by the National Fire Protection Association (Quincy, Massachusetts, 1981) which are adopted by reference as part of this code as though set forth herein in their entireties.

11 MCAR § 1.5114 Article 4 of the *Uniform Fire Code*. Article 4 of the *Uniform Fire Code* is deleted in its entirety.

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PROPOSED RULES

11 MCAR § 1.5115 Sec. 9.103 of the *Uniform Fire Code*. In Sec. 9.103 of the *Uniform Fire Code* the following definition is added:

Sec. 9.103. AUTHORITY HAVING JURISDICTION shall mean any municipal fire code official or the state fire marshal or any of their authorized representatives.

11 MCAR § 1.5116 Sec. 9.104 of the *Uniform Fire Code*. In Sec. 9.104 of the *Uniform Fire Code* the definition of Building Code is amended to read:

Sec. 9.104. BUILDING CODE shall mean the *Minnesota State Building Code*.

11 MCAR § 1.5117 Sec. 9.108 of the *Uniform Fire Code*. In Sec. 9.108 of the *Uniform Fire Code* the following definition is added:

Sec. 9.108. FIREMAN, as used throughout this code, shall be construed to mean firefighters.

11 MCAR § 1.5118 Sec. 9.115 of the *Uniform Fire Code*; mechanical code defined. In Sec. 9.115 of the *Uniform Fire Code* the definition of mechanical code is amended to read:

Sec. 9.115. MECHANICAL CODE shall mean the Minnesota Heating, Ventilation, Air Conditioning, and Refrigeration Code, rules SBC 7101-8505 of the Department of Administration.

11 MCAR § 1.5119 Sec. 9.115 of the *Uniform Fire Code*; municipality defined. In Sec. 9.115 of the *Uniform Fire Code* the following definition is added:

Sec. 9.115. MUNICIPALITY shall mean any city, county, or town meeting the requirements of Minn. Stat. § 368.01, subd. 1, or the University of Minnesota.

11 MCAR § 1.5120 Sec. 9.121 of the *Uniform Fire Code*. In Sec. 9.121 of the *Uniform Fire Code* the following definition is added:

Sec. 9.121. STATE FIRE MARSHAL shall mean the Minnesota state fire marshal or any of his or her authorized representatives.

11 MCAR § 1.5121 Sec. 10.207 of the *Uniform Fire Code*. Sec. 10.207 of the *Uniform Fire Code* is amended by adding paragraphs to read:

Sec. 10.207. (f) The marking of fire lanes on private and public property shall be designated and approved by the chief and the chief of police.

(g) Parking of motor vehicles in, or otherwise obstructing, fire lanes shall be prohibited at all times.

11 MCAR § 1.5122 Sec. 10.301 of the *Uniform Fire Code*. Sec. 10.301, paragraph (e), of the *Uniform Fire Code* is amended to read:

Sec. 10.301. (e) All fire alarm systems, fire hydrant systems, fire-extinguishing systems (including automatic sprinklers), wet and dry standpipes, basement inlet pipes, and other fire-protection systems and pertinents thereto shall meet the approval of the chief as to installation and location and shall be subject to such periodic tests as required by the chief. Plans and specifications shall be submitted to the chief for review and approval prior to issuance of a building permit.

11 MCAR § 1.5123 Sec. 10.306 of the *Uniform Fire Code*. Sec. 10.306 of the *Uniform Fire Code* is amended to read:

Sec. 10.306. In all auto and trailer camps, there shall be installed and maintained in good repair $\frac{3}{4}$ -inch standpipes connected to sufficiently large water mains to which shall be permanently affixed good grade garden hose not greater than 100 feet in length, with an approved garden hose nozzle or its equivalent attached. Such hose shall be protected in a manner approved by the chief and plainly marked "FOR FIRE ONLY." A sufficient number of these standpipe units shall be installed in each auto and trailer camp so that at least one nozzle will reach any building, trailer or trailer site.

11 MCAR § 1.5124 Sec. 10.309(b)(4) of the *Uniform Fire Code*. Sec. 10.309(b)(4) of the *Uniform Fire Code* is deleted in its entirety.

11 MCAR § 1.5125 Sec. 10.310 of the *Uniform Fire Code*. Sec. 10.310, paragraph (b), of the *Uniform Fire Code* is amended to read:

Sec. 10.310. (b) Where Required.

1. Standpipe systems shall be provided as set forth in table no. 10.310 and shall have a constant water supply and pressure.

EXCEPTION: Dry standpipes may be installed with prior approval of the chief.

2. Standpipe systems shall comply with Standard 14, in the 'National Fire Codes, 1981,' issued by the National Fire Protection Association (Quincy, Massachusetts, 1981).

11 MCAR § 1.5126 Table No. 10.310 of the *Uniform Fire Code*. Table No. 10.310 of the *Uniform Fire Code* is amended to read:

TABLE NO. 10.310—STANDPIPE REQUIREMENTS

Occupancy ¹	NONSPRINKLERED BUILDING ²		SPRINKLERED BUILDING ^{3 4}	
	Standpipe Class	Hose Requirement	Standpipe Class	Hose Requirement
Occupancies exceeding 150 ft. in height and more than one story.	III	Yes	III	No
Occupancies 3 stories or more but less than 150 ft. in height, except Group R, Div. 3.	I and II ⁵ (or III)	No Yes	I (or III)	No No
Group A Occupancies with occupant load exceeding 1000.	II	Yes	No requirement	No
Group A, Div. 2.1				
Occupancies over 5000 square feet in area used for exhibition.	II	Yes	II	Yes
Groups I, H, B, Div. 1, 2, or 3				
Occupancies less than 4 stories in height but greater than 20,000 square feet per floor	II ⁵	Yes	No requirement	No

11 MCAR § 1.5127 Sec. 10.313 of the *Uniform Fire Code*. Sec. 10.313 of the *Uniform Fire Code* is deleted and replaced with the following:

Sec. 10.313. Special Automatic Fire-Extinguishing Systems. In all new and existing occupancies having commercial cooking equipment (see Standard 96, in the 'National Fire Codes, 1981,' issued by the National Fire Protection Association (Quincy, Massachusetts, 1981)), automatic fire-extinguishing systems complying with the *Building Code* shall be installed for protection of duct systems, grease removal devices, hoods and above commercial cooking equipment which may be a source of ignition (such as fat fryers, ranges, griddles, and broilers). Also permitted are systems installed in accordance with Standards 16 and 17, in the 'National Fire Codes, 1981,' issued by the National Fire Protection Association (Quincy, Massachusetts, 1981).

EXCEPTION: These requirements shall not apply to Group R3 Occupancies. Extinguishing systems shall be serviced at least every six months or after activation of the system. Hoods, ducts, filters, and fan housings shall be cleaned at sufficient intervals as determined by the chief to prevent the accumulation of grease therein.

11 MCAR § 1.5128 Sec. 11.204 of the *Uniform Fire Code*. Sec. 11.204 of the *Uniform Fire Code* is amended to read:

Sec. 11.204. Cotton batting, either natural, artificial or manufactured, straw, dry vines, leaves, trees, or other highly flammable materials shall not be used for decorative purposes in show windows or other parts of all occupancies unless flame retardant, provided, however, that nothing in this section shall be held to prohibit the display of saleable goods permitted and offered for sale. Electric light bulbs in such occupancies shall not be decorated with paper or other combustible materials unless such materials shall first have been rendered flame retardant.

EXCEPTION: These requirements shall not apply to Group R3 Occupancies.

¹ Class II standpipes need not be provided in assembly areas used solely for worship.

² Class II standpipes need not be provided in basements having an automatic fire-extinguishing system throughout such basements.

³ Combined systems with their related water supplies may be used in sprinklered buildings.

⁴ Portions of otherwise sprinklered buildings which are not protected by automatic sprinklers shall have Class II standpipes installed as required for the unsprinklered portions.

⁵ In open structures where Class II standpipes may be damaged by freezing, the building official may authorize the use of Class I standpipes which are located as required for Class II standpipes.

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PROPOSED RULES

11 MCAR § 1.5129 Sec. 11.207 added to the *Uniform Fire Code*. A new section is added to the *Uniform Fire Code* to read:
Christmas Trees

Sec. 11.207. (a) The use or display of natural or resin bearing trees or decorations in hospitals and nursing homes is prohibited.

(b) The use, display, or storage of natural or resin bearing trees without open flames or electric light decorations is permitted in schools, churches, hotels, and mercantile occupancies.

(c) The use or display of flame retardant artificial trees decorated with U.L. listed electric lighting systems is acceptable in all occupancies.

(d) Natural or resin bearing trees shall not be stored on balconies or grounds of R1 Occupancies. See section 11.203(c).

11 MCAR § 1.5130 Sec. 11.208 added to the *Uniform Fire Code*. A new section is added to the *Uniform Fire Code* to read:
Malls, Skyways, Tunnels, or Courts

Sec. 11.208. No combustible goods, merchandise, vehicles, or decorations shall be displayed or stored in an enclosed mall, skyway, tunnel, or court unless prior approval is obtained from the chief.

11 MCAR § 1.5131 Sec. 11.301 of the *Uniform Fire Code*. Sec. 11.301, paragraph (a), of the *Uniform Fire Code* is amended to read:

Sec. 11.301. (a) In the event of the discovery of fire, smoke, or flammable or toxic gases on any property, the owner or occupant shall immediately report such condition to the local fire department.

11 MCAR § 1.5132 Sec. 11.302 of the *Uniform Fire Code*. Sec. 11.302 of the *Uniform Fire Code* is amended by adding a paragraph to read:

Sec. 11.302. (e) Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such box or station, or unlawfully breaks, injures, destroys, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or any auxiliary fire appliance is guilty of a misdemeanor.

11 MCAR § 1.5133 Sec. 11.403 of the *Uniform Fire Code*. Sec. 11.403, paragraph (b), of the *Uniform Fire Code* is amended to read:

Sec. 11.403. (b) Every kettle shall be equipped with a tight-fitting cover. A kettle, when in operation, shall be placed a safe distance from any combustible material or buildings. Fired tar kettles shall not be left unattended.

EXCEPTION 1: Kettles when mounted in a truck body of all metal construction and securely attached to the bed of the truck. The driver, operator, or attendant shall not leave the immediate vicinity of the vehicle while it is being filled or discharged.

EXCEPTION 2: Small patch kettles while being towed behind a vehicle for patching purposes only.

11 MCAR § 1.5134 Sec. 12.101 of the *Uniform Fire Code*. The last sentence of Sec. 12.101 of the *Uniform Fire Code* is amended to read:

Sec. 12.101. No exit or part thereof shall be altered in any way unless in conformance with the *Building Code*.

11 MCAR § 1.5135 Article 26 of the *Uniform Fire Code*. The title of Article 26 of the *Uniform Fire Code* is changed to "RESURFACING AND REFINISHING."

11 MCAR § 1.5136 Sec. 26.101 of the *Uniform Fire Code*. Sec. 26.101 of the *Uniform Fire Code* is amended to read:

Sec. 26.101. Bowling alleys, roller skating rinks, and other public assembly occupancies shall conform to all other applicable requirements of this code, as well as the following provisions.

11 MCAR § 1.5137 Sec. 26.102 of the *Uniform Fire Code*. Sec. 26.102 of the *Uniform Fire Code* is amended to read:

Sec. 26.102. No person shall conduct bowling pin refinishing and bowling alley or floor resurfacing and refinishing operations involving the use and application of flammable liquids or materials without a local permit.

11 MCAR § 1.5138 Sec. 26.103 of the *Uniform Fire Code*. The subtitle of Sec. 26.103 of the *Uniform Fire Code* is changed to "Resurfacing and Refinishing."

11 MCAR § 1.5139 Sec. 26.104 of the *Uniform Fire Code*. The subtitle of Sec. 26.104 of the *Uniform Fire Code* is changed to "Refinishing."

11 MCAR § 1.5140 Sec. 49.101 of the *Uniform Fire Code*. Sec. 49.101 of the *Uniform Fire Code* is amended by adding a new paragraph to read:

Sec. 49.101. (c) A local permit shall be required for welding or cutting operations. This permit shall not be required for each welding or cutting job location. All persons shall notify the chief in advance where such work is taking place, except where such work is done in response to an emergency call that does not allow for the chief to be notified in advance of the work. The requirement to notify the chief does not apply to welding operations conducted on the premises of a commercial or industrial establishment engaged primarily in work requiring welding operations.

11 MCAR § 1.5141 Sec. 61.103 of the *Uniform Fire Code*. Sec. 61.103, paragraph (a), of the *Uniform Fire Code* is amended to read:

Sec. 61.103. (a) The installation shall be made in accordance with the instructions of the manufacturer; the *Minnesota Heating, Ventilation, Air Conditioning, and Refrigeration Code*, rules SBC 7101-8505 of the Department of Administration; and Standard 31, in the 'National Fire Codes, 1981,' issued by the National Fire Protection Association (Quincy, Massachusetts, 1981).

11 MCAR § 1.5142 Sec. 61.105 of the *Uniform Fire Code*. Sec. 61.105 of the *Uniform Fire Code* is amended to read:

Sec. 61.105. The grade of fuel oil used in a burner shall be that for which the burner is approved and as stipulated by the manufacturer. Crankcase oil or any oil containing gasoline may only be used in units designed for such use, and approved and listed by a nationally recognized testing agency.

11 MCAR § 1.5143 Sec. 74.101 of the *Uniform Fire Code*. Sec. 74.101 of the *Uniform Fire Code* is amended to read:

Sec. 74.101. This article shall apply to bulk oxygen systems and to the storage, handling and use of compressed gases as defined herein. This article shall also apply to fixed installations of nonflammable medical gases intended for sedation, wherein the patient is not rendered unconscious, such as, but not limited to, analgesia systems used for dentistry, podiatry, and such other similar uses. Liquefied petroleum gases and compressed gases used in conjunction with welding or cutting operations are exempt from these provisions. Wherever the term "oxygen" occurs in this article, the requirements shall apply to systems for nitrous oxides.

11 MCAR § 1.5144 Article 77 of the *Uniform Fire Code*. Article 77 of the *Uniform Fire Code* is deleted in its entirety.

11 MCAR § 1.5145 Sec. 79.101 of the *Uniform Fire Code*. Sec. 79.101, paragraphs (b) and (c), of the *Uniform Fire Code* are amended to read:

Sec. 79.101. (b) This article shall not apply to the transportation of flammable liquids when in conformity with U.S. Department of Transportation regulations lawfully on file with and approved by the U.S. Department of Transportation.

(c) The storage, handling and dispensing of flammable and combustible liquids shall be in accordance with rules Fire Mar 20-23 of the Department of Public Safety.

11 MCAR § 1.5146 Sec. 79.703 of the *Uniform Fire Code*. Sec. 79.703, paragraph (f), of the *Uniform Fire Code* is amended to read:

Sec. 79.703. (f) Approved special dispensing systems. Approved special dispensing systems such as card operated and remote preset-types are permitted at service stations, provided there is at least one attendant on duty at all times the station is open to the public. Approved dispensing devices are permitted for self-service stations. Coin and currency operated dispensing devices are not approved dispensing devices.

1. The attendant or supervisor on duty shall be capable of performing the functions and assuming the responsibilities covered in Section 79.703(b).

2. Emergency controls shall be installed at a location acceptable to authority having jurisdiction, but controls shall be not more than 100 feet from dispensers.

3. Instructions for the operation of dispensers shall be conspicuously posted.

4. Remote preset-type devices are to be in the off position while not in use so that dispenser cannot be activated without the knowledge of the attendant.

11 MCAR § 1.5147 Sec. 79.703 of the *Uniform Fire Code*. Sec. 79.703 of the *Uniform Fire Code* is amended by adding new paragraphs to read:

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PROPOSED RULES

Sec. 79.703. (g) Age requirement. Flammable and combustible liquids shall be dispensed only by persons 16 years of age and older. Prominent signs shall be posted at self-service stations prohibiting flammable liquids from being dispensed by anyone under age 16.

(h) Dwelling Units. No dwelling unit or sleeping facility shall be maintained in or on the premises of self-service stations closer than 100 feet from Class I flammable liquid self-service dispensing devices or 50 feet from Class II flammable liquid self-service dispensing devices.

11 MCAR § 1.5148 Article 82 of the *Uniform Fire Code*. Article 82, Liquefied Petroleum Gases, is deleted in its entirety.

11 MCAR § 1.5149 Rules for liquefied petroleum gases. Rules for liquefied petroleum gases shall be the existing state fire marshal rules concerning liquefied petroleum gases, rules Fire Mar 11-14 of the Department of Public Safety.

11 MCAR § 1.5150 Amendments to the Appendixes of the *Uniform Fire Code*.

A. Adoption. Appendixes A, B, D, E, F, G, H, and I of the *Uniform Fire Code* shall be deemed a part of this code and shall be enforced as such. Appendix C is deleted in its entirety. Appendix J may or may not be adopted at the discretion of the local jurisdiction.

B. Amendment. Appendix A, item 3(d), is amended to read:

(d) In addition to the foregoing requirement, the capacity of each new tank installed shall be restricted to not more than 3,000 gallons. When installed but before backfilling, tank and fittings shall be tested for tightness at not less than three nor more than five pounds per square inch for not less than one hour. Greater test pressures may be required by the chief when tanks are subject to submergence in excess of 30 feet.

Repealer. Rules of the Department of Public Safety, Fire Marshal Division, Fire Mar 30-51 and its rules 4401-4404 governing nursing and boarding care homes are repealed.

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 Commerce Office of Consumer Services

Adopted Temporary Rules Governing Cosmetology Schools, Licensing and License Fees

The temporary rules proposed and published at *State Register*, Volume 6, Number 22, pages 1047-1048, November 30, 1981 (6 S.R. 1047) are now adopted as proposed.

**State Board of Education
Department of Education
Special Services Division****Adopted Amendments to Rule Governing the Licensure of Counselors in Middle
Schools (5 MCAR § 1.0531)****Rule as Adopted**

The rule as proposed and published at *State Register*, Volume 6, Number 22, pp. 1048-1049, November 30, 1981 (6 S.R. 1048) is now adopted.

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

The rules proposed and published at *State Register*, Volume 6, Number 22, pages 1056-1059, November 30, 1981 (6 S.R. 1056) are now adopted with the following modification:

Rules as Adopted

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 and mental alertness shall accompany the application for school bus driver's endorsement when presented to the Department of Public Safety.

**Department of Public Safety
Driver and Vehicle Services Division****Adopted Rules Governing Requirements for Commercial Driver Training Vehicles,
Instruction, Instructor and School Licensing**

The rules proposed and published at *State Register*, Volume 6, Number 21, pages 1007-1016, November 23, 1981 (6 S.R. 1007) are now adopted with the following modifications:

Rules as Adopted

11 MCAR § 1.4034 Driver training instruction requirements.

B. Behind the wheel instruction.

8. Except for the training offered in Class A and B vehicles, neither a commercial school nor an instructor may give a student more than 20 30 hours of behind the wheel training without the written authorization of the commissioner.

11 MCAR § 1.4035 Driver training instructor requirements. An applicant for an instructor license must:

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ADOPTED RULES

J. Have satisfactorily completed ~~an 80~~ a 40-hour course; ~~or 40 hours for teachers licensed by the Department of Education,~~ of driver and traffic safety education; ~~or pass an equivalency test,~~ which is approved or supervised by the Minnesota Department of Public Safety. Teachers licensed by the Department of Education may elect to pass an equivalency test. In addition, motorcycle instructors must have had ten hours of approved motorcycle instructor training. Licensed instructors shall be required to complete driver and traffic safety education courses periodically when these courses are approved or supervised by the Minnesota Department of Public Safety. Simulator instructors shall have completed a course in simulation approved by the commissioner as having met standards of the Department of Education.

11 MCAR § 1.4036 Commercial driver training school requirements.

A. Insurance and safety.

4. The commercial driver training school owner or operator; ~~except those that provide the training before collecting the fee,~~ shall secure and submit with the application a continuous surety company bond in the principal sum of \$10,000 for the protection of the contractual rights of students, undertaken by a company authorized to do business in the State of Minnesota. The aggregate liability of the surety for all breaches of the bond shall not exceed the principal sum of \$10,000. The school shall furnish satisfactory evidence of such coverage to the commissioner. The concerned surety company may cancel said bond upon giving 30 days' written notice thereof to the commissioner. The surety company shall be relieved of all liability for any breach of any condition of the bond occurring after the effective date of cancellation.

C. Business records. The following business records must be maintained:

1. Instruction record. A permanently bound book with consecutively numbered pages to record, in ink, for every person given lessons of any kind or any other services relating to classroom or behind the wheel instruction in the operation of a motor vehicle, name, address, date of birth, contract number, and date of first lesson and type of lessons ~~and their completion dates.~~

11 MCAR § 1.4037 Licensing provisions.

H. Suspension and revocation of license. The license of a commercial driver training school or instructor may be revoked, suspended or a renewal refused under any of the following conditions:

4. Whenever the licensee is convicted of a crime, or of an offense which would be grounds for the revocation, suspension or cancellation of his driver license. Every instructor licensed to teach driver training must maintain a good driving record. Any licensed school operator or instructor who is convicted of a traffic violation or involved in a motor vehicle accident may be required to appear before the commissioner or his designated agent and show cause why such license should not be suspended or revoked. It shall be the duty of the instructor and the owner of the commercial driving school to notify the commissioner and the office of driver clinics and training of all such circumstances. After a hearing the commissioner shall notify the licensee of his decision within 30 days. If the license is suspended or revoked the licensee shall surrender his license to the commissioner ~~with~~ within ten days. Failure to notify the commissioner of an accident or of a conviction for a traffic violation shall result in the suspension or revocation of the school's or the instructor's license, or both licenses if applicable and renewal of a license may be denied.

TAX COURT

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

State of Minnesota

Tax Court

Harold Specktor and Anna Specktor,
and Irving Shaw and Ruth Shaw,

Appellants,

v.

The Commissioner of Revenue,

Appellee.

Revised Findings of Fact,
Conclusions of Law, and
Order for Judgment

Docket Nos. 2614 & 2615

Order dated April 6, 1982

The above-entitled matter came on for hearing before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court, at 444 Lafayette Road, St. Paul, Minnesota, on February 23, 1982, commencing at approximately 10:00 o'clock in the morning.

Appearances:

On behalf of the Appellants, Irving Shaw, Esq., 100 Early American Life Building, 2706 West 7th Boulevard, St. Paul, Minnesota 55116.

On behalf of the Appellee, James W. Neher, Esq., Department of Revenue, Second Floor, Centennial Building, 658 Cedar, St. Paul, Minnesota 55145.

This matter was previously decided by this Court on May 27, 1980, but the decision was appealed to the Minnesota Supreme Court. The previous decision of this Court was reversed by the Supreme Court and the matter was remanded to the Tax Court for further hearing consistent with the opinion of the Supreme Court.

The issue relates to certain losses taken on the individual returns which resulted from the ownership of certain apartment buildings owned by the Appellants. The losses were disallowed by the commissioner for the year 1974 because they were reported on a small business return. The position of the commissioner is that the losses were not deductible on the individual returns because the election to be taxed as a Small Business Corporation was revoked by the commissioner and consented to by the Appellants for that year.

After said hearing, and being fully advised in the premises, the Court makes the following:

Revised Findings of Fact

1. Shaw-Specktor Properties ("the partnership") was formed in 1972. It is comprised of two partners, Irving Shaw and Harold Specktor.

2. For the taxable years 1972, 1973, 1975, 1976 and 1977, the partnership filed Minnesota partnership returns (Form M-3) with the Department of Revenue.

3. On August 27, 1973, Shaw-Specktor Properties, Inc. ("the corporation") was organized under the provisions of the Minnesota Business Corporation Act, Minn. Stat. Chapter 301. The incorporators and directors of the corporation are Irving Shaw and Harold Specktor. Mr. Shaw admitted that the purpose of the corporation was to limit his liability on account of a previous business loss incurred by him, however, that business purpose was never pursued because title to the properties was never transferred to the corporation. The corporation was never involved in the operation of the apartment buildings. The corporation never issued any stock in spite of the fact that the small business return showed that each of the Appellants owned 500 shares of stock in the corporation.

4. On September 24, 1973, the corporation filed an election to be taxed as a Small Business Corporation under the provisions of Minn. Stat. § 270.972. The election was signed by Irving Shaw as president of the corporation, however, Irving Shaw was ignorant of the fact that a corporation receiving more than 20% of its income from rents could not qualify as a Small Business Corporation.

TAX COURT

5. For the taxable year 1974, the Appellants filed a Minnesota Partnership Return for an electing Small Business Corporation (Form M-3S-4) with the mistaken belief that the tax consequences would be no different than if a partnership return had been filed.

6. For the taxable year 1974, the corporation also filed a Federal Small Business Corporation Return (Form 1120S).

7. On June 4, 1975, Mr. J. C. Haldeman of the Minnesota Department of Revenue prepared an Amended Minnesota Income Tax Return on Form M-4. On the same date he also sent a form letter addressed to Shaw-Spektor Properties attention Irving Shaw which reads in pertinent part as follows:

The election of the corporation is deemed terminated for taxable year ending December 31, 1974, under the Provisions of Regulation 2097.2(5) (B) (5), and the return as filed is being processed as a Minnesota Corporation Income Tax Return. Form M-4.

This letter is also a proposed change of your tax liability from "NONE" as shown on the return to \$102.00, as indicated by memorandum copy of Form M-4 attached.

If you agree with this proposed change to your tax liability, please send your remittance for \$102.00, with a copy of this letter for identification by July 15, 1975. If you disagree with this proposed change, please submit your protest in writing within the same period outlining your reasons for your disagreement.

8. Calendar year 1974 was the first year after the Department of Revenue adopted a change in procedure. It was also the first year that Form M-3S-4 was prescribed. Prior to calendar year 1974, Form M-3S was used. Said form was a straight partnership return and could not be treated as a corporate return. The Commissioner of Revenue would not assess additional tax against a taxpayer in a similar situation. He would have had to go through the demand procedure—demanding that the taxpayer file a regular corporation return.

9. When the Appellants received a notice of the termination of the election, they called it to the attention of their accountant and were advised that it wouldn't make any difference. The Appellants and their accountant were totally ignorant of the full import of the new administrative procedure and of the letter cancelling the election, so the Appellants did not contest the termination of the corporations' election to be taxed as a partnership. On September 9, 1975, Irving Shaw remitted a check in the amount of \$103.00, along with a copy of the letter to the Commissioner of Revenue.

10. For the taxable years 1972, 1973, 1975, 1976 and 1977, in conjunction with the partnership returns for those years, Irving Shaw and Harold Spektor took substantial business loss deductions on their individual federal returns, attributable to the operation of various apartment buildings.

11. For the taxable year 1974 (the year in question), Irving Shaw and Harold Spektor took similar business loss deductions on their individual federal income tax returns, each in the amount of \$31,396.24. The losses were derived from the same apartment buildings and no legal change of title occurred either before, during or after the year 1974. The legal title to the apartment buildings, at all times relevant herein, was as follows:

An undivided one-half interest in the name of Harold and Anna Spektor and the other undivided half interest in the name of Irving and Ruth Shaw.

12. On March 22, 1978, Appellants Irving and Ruth Shaw were assessed additional income taxes in the amount of \$3,655.60 plus interest, and Appellants Harold and Anna Spektor were assessed additional income taxes in the amount of \$1,035.03 plus interest. The assessments were made after the time limit for the filing of amended income tax returns had passed. No evidence was presented to the effect that the deduction of the losses was disallowed by the Internal Revenue Service on the federal income tax returns of the Appellants.

13. Appellants have appealed from the disallowance of those deductions.

14. The federal adjusted gross income of Harold and Anna Spektor for the calendar year 1974 was a minus \$12,945.80. By adding the loss of \$31,396.24 and by making certain other adjustments, the commissioner determined that additional tax in the amount of \$1,035.03, plus interest, was due from the Appellants.

15. The federal adjusted gross income of Irving and Ruth Shaw for the calendar year 1974 was \$17,902.59. By adding the loss of \$31,396.24, and by making certain other adjustments, the Commissioner determined that additional tax in the amount of \$3,655.60, plus interest, was due from Appellants.

16. The depreciation schedules attached to the 1974 returns were just a carryover of the partnership depreciation for the year 1973, and the 1975 and 1976 depreciation schedules attached to the partnership returns were just a continuation of the same schedule.

17. During the years 1972 through 1977, the Appellants did employ three caretakers and one bookkeeper in connection with the operation of the apartment buildings. There was no change in the management or in that relationship during the year 1974.

18. All of the income tax returns for the partnership, the corporation, and the individuals were prepared by Mr. James Tilsner and his father, both of whom were Certified Public Accountants. The Appellants relied on their advice. Mr. James Tilsner

testified that the federal and state income tax returns reflecting the losses from the investment in the apartment buildings for the year 1974 should have been filed on a partnership form and that it was definitely his error in using the corporate form. He testified that he first became aware of the error shortly after June 4, 1975, when his attention was called to the letter from the Department of Revenue indicating that the election to be taxed as a partnership had been terminated. He further testified that he didn't take any action after his attention was called to that letter except that for the following year the income tax return was again filed on a partnership form. No amended return was filed for the year 1974, because the Certified Public Accountant advised the Appellants that the termination of the election would have no effect on the income tax liability of the Appellants.

Conclusions of Law

1. Although the Commissioner's Orders assessing additional taxes are presumed to be correct, the Appellants have sustained the burden of proving that the use of the Small Business Corporation Form (M-3S-4) was a mistake and that the business was and had always been a partnership.
2. The Appellants were justified in relying on the advice of a Certified Public Accountant even if that advice was in error and should not be penalized for so doing.
3. The Orders of the Commissioner of Revenue assessing additional taxes should be and are hereby reversed.

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

Dated: April 6, 1982

By the Court,
John Knapp, Chief Judge
Minnesota Tax Court

Memorandum

It is clear from all of the evidence in the instant case that there was no intention on the part of the Appellant to avoid the payment of tax by filing the return in the manner that it was filed. On the contrary, it is clear that if a partnership return had been filed as warranted by the facts of the case, the Appellants would have been allowed to deduct the losses in the same manner that they were deducted on the returns.

The only effect an affirmance of the Commissioner's Orders would have would be an unjust enrichment of the State of Minnesota at the expense of the Appellants resulting from their ignorance.

Respondent contends that the corporation was formed for a valid business purpose because Mr. Shaw testified that it was formed for the purpose of limiting liability on some losses that he had incurred on another venture. Assuming that that was the intended purpose for forming the corporation, the fact that the title to the real estate in question was never transferred to that corporation bears out the Appellants' contention that the corporation never did operate as such, because so long as the title remained in the individuals, the corporation never did accomplish the purpose of limiting the liability. So even though the corporation was formed for a valid business purpose, the fact remains that that valid business purpose was never pursued.

Respondent contends that the Appellants' testimony regarding a good faith error is not credible; that the "mistake" came into existence after termination of the Sub S election, and the tax advantages with respect to the business losses had evaporated. It appears to the Court that there were a series of errors and that if the Appellants had known the consequences of their acts, none of those errors would have been committed. The first error was the filing of the election to be taxed as a Small Business Corporation. Had the Appellants been aware of the fact that an election to be taxed as a Small Business Corporation could not be made when more than 20% of the income is derived from rentals, the election would surely not have been made. The second error was the filing of the income tax return on Form M-3S-4. Had the Appellants been aware of the fact that losses from rentals would not be deductible on their individual returns, they would surely not have filed those forms. This is very evident from the fact that on their individual returns, each of them claimed the losses as deductions, as they had in prior years. The third error occurred after the Appellants received the notice of termination of the election to be taxed as a Small Business Corporation. Had the Appellants been aware of the tax consequences, they would surely have filed amended corporate returns and filed the proper partnership returns as well as amended individual returns instead of paying the additional \$103.00 of taxes assessed. At that time amended returns could have been filed and all of the present controversy could have been avoided, but the Appellants and their accountant were unaware of the tax consequences of their acts.

In the instant case, the Appellants relied on the advice of a Certified Public Accountant—a person who should be knowledgeable in tax matters. He advised them that the termination of the election would make no difference, so they simply paid the assessment of \$102.00 plus \$1.00 for interest to get rid of the nuisance. It appears to the Court that the Appellants should not be penalized for relying on "an expert," even if they received bad advice from him.

The commissioner contends that the corporation conducted business as a corporation but the only evidence to that effect was that for the year 1974 the income of the partnership was erroneously reported on Form M-3S-4. The uncontroverted evidence was that the corporation was never involved in the operation of the apartment buildings. No part of the assets of the partnership

TAX COURT

were ever transferred to the corporation. Title to the apartment buildings remained, at all times, in the individuals, and no agreement of any kind was ever entered into between the partnership and the corporation.

There are numerous cases which hold that on tax questions a Court is free to look at the substance not just the form of the transaction. *Transport Leasing v. State*, 294 Minn. 134, 199 N.W. 2d 817; *Midwest Federal Savings and Loan v. Commissioner*, 259 N.W. 2d 596. In the instant case there was a paper corporation but the business was conducted by the partnership, so we look to the partnership because that was the entity that conducted the business.

Even though Mr. Shaw is an attorney, he is not a tax expert and obviously did not realize the consequences encountered by the termination of the election to be taxed as a Small Business Corporation. If the letter from the commissioner had alerted him to the tax consequences, he would surely not have paid the \$103.00 remitted on September 9, 1975, but instead would have filed an amended corporate return and also a partnership return at that time.

The evidence taken as a whole is quite consistent with the Appellants contention that they were under the erroneous impression that it didn't make any difference whether they filed a partnership return or a small business return. This is particularly significant in view of the fact that the year 1974 was the first year in which the department had initiated the change in administrative procedure. If this situation would have arisen with respect to calendar year 1973, the Department of Revenue would have treated the return as a partnership return.

It appears to the Court that the letter dated June 4, 1975, terminating the election to be taxed as a Small Business Corporation for the calendar year 1974 may have misled the Appellants into believing that the payment of \$102.00 was the only consequence of the change. The letter did not alert the Appellants to the consequences of the termination. If the Appellants had been alerted to the consequences at that time, they could have filed an amended corporate return, a proper partnership return and amended individual returns and avoided all of the problems now confronting them.

A review of the testimony of Mr. John C. Haldeman on Page 78 of the transcript leads this Court to the conclusion that if this situation would have arisen in calendar year 1973, the Department of Revenue would have treated the return as a partnership return and would have had to go through the demand procedure and demand that the taxpayers file a regular corporation return. The Court is of the opinion that had that been done, the Appellants would have been alerted to the tax consequences and would likely have refused to file the regular corporation return, thus leaving it as a partnership.

It is undisputed that the losses incurred in the year 1974 were derived from the same properties as the losses which were incurred in the years 1972, 1973, 1975 and 1976, and that the legal title to the properties from which the losses were incurred was no different in 1974 than it was in each of the other years.

The State of Minnesota will suffer no loss of revenue as a result of a reversal of the Commissioner's Orders, in each of the above-entitled matters. If the Appellants had filed a proper partnership return, as they should have, and would have if they had known the tax consequences, the losses suffered from the ownership of the apartments would have been fully deductible on the Minnesota Income Tax Returns of the Appellants.

Because the Appellants were assessed additional income taxes after the time limit for filing an amended tax return had passed, it would be a miscarriage of justice to allow the assessments to stand.

In tax law, all doubts are to be resolved in favor of the taxpayer. *Mondale v. Commissioner*, 263 Minn. 121, 116 N.W. 2d 82.

In tax law, unlike criminal law, ignorance may be an excuse for not following the format required by tax regulations, and a taxpayer who can demonstrate ignorance should not be penalized.

A taxpayer is entitled a refund of excess taxes paid notwithstanding that the overpayment was caused by his own error in preparing his return. *Shaw v. U. S.*, 49 F. 2d 628.

Minn. Stat. § 290.50, subd. 1, reads in pertinent part as follows:

"A taxpayer who has paid or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the Commissioner a claim for a refund of such excess. Except as otherwise provided in this section, no claim or refund shall be allowed or made after three and one-half years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the taxpayer.

We have not been able to find any Minnesota cases in point, however, there are several federal cases which hold that overpayment of a tax resulting from a mistake of law or fact may be recovered on a claim for refund. *Supino v. U. S.*, 192 F. Supp. 389; *Shelter Island v. U. S.*, 246 F. Supp. 488; *Greenwald v. U. S.*, 57 F. Supp. 569; and *Ward v. U. S.*, 52 F. Supp. 995.

The Court finds that it would be inequitable to assess the additional tax against the Appellants merely because they made the technical error of using the wrong form in filing the income tax return.

J. K.

SUPREME COURT

Decisions Filed Friday, April 16, 1982

Compiled by John McCarthy, Clerk

81-475/Sp. State of Minnesota v. Thomas E. Darveaux, Appellant. Dakota County.

Identification procedures were not so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification.

Admission of asserted other-crimes evidence was proper.

Admission of defendant's past convictions was not prejudicial error.

Where the record clearly shows that defendant chose not to rely on his right to remain silent, but instead made statements to police, the prosecutor may show and comment upon defendant's failure to relate to police crucial exculpatory statements recited by defendant at trial.

Defendant waived his right to have the issue of improper comment by the prosecutor in closing argument considered on appeal.

Affirmed. Peterson, J.

81-455/Sp. Wayne Westgor, individually and as a minority shareholder of Winton's Inc., Appellant, v. Harvey W. Grimm, Charles W. Grimm, Arlene M. Grimm and Winton's, Inc. Sherburne County.

The trial court did not err in dismissing plaintiff's action for involuntary dissolution, his claim of fraud and his individual claims against the corporation.

It is error to dismiss plaintiff's case where plaintiff has established transactions in which the directors of a corporation have dealt with the corporation: establishment of such transactions shifts the burden to defendant directors to prove that the transactions were in the interests of the corporation.

Affirmed in part, reversed in part and remanded. Wahl, J. Conc. spec. Yetka, J.

81-748 Florence E. Peterson v. Bendix Home Systems, Inc., Appellant, Heritage Homes, Inc. Hennepin County.

In a buyer's action for breach of warranty against the manufacturer of a product for damages to the product itself and for incidental damages, the Comparative Fault Statute is not applicable and the buyer's contributory fault is not a defense.

There is sufficient evidence to sustain the jury's finding that the difference in value between the mobile home as warranted and as delivered was the full purchase price.

Plaintiff's post-trial motion for attorneys fees and costs under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2310 (d) (2) (1976), was properly denied.

Affirmed. Simonett, J.

Decision Filed Friday, April 9, 1982

82-214/Sp. State of Minnesota, Appellant, v. Eartha Mae Frazier. Ramsey County.

Where police, who were armed with a warrant for the arrest of a particular person, arrested the wrong person, the arrest was illegal because the police did not have a reasonable basis for believing that the person arrested was in fact the person sought.

Search of purse of wrongly arrested person for identification papers was not justifiable as a search incident to arrest where arrest was illegal, and our examination of the records discloses no other basis for sustaining the search.

Affirmed. Kelley, J.

STATE CONTRACTS

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

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

Department of Energy, Planning and Development Office of Business Development

Notice of Request for Proposals for a Marketing Feasibility Study for a Downtown Duluth Auto Mart

Proposals are being accepted for a marketing feasibility study of the proposed Downtown Duluth Auto Mart.

The purpose of the study is to determine the financial and architectural feasibility of consolidating three existing auto dealerships (being displaced by the I-35 extension) into a joint operation with common service and showroom areas. The study will focus on need for development, market projections, desirability of location, economics of operation, and preliminary construction plans.

The department estimates that the cost of such a study to be \$20,000.

Proposals must be submitted no later than 4:00 p.m. Monday, May 24th, 1982. Further information is available by writing or calling:

Linda Koerner
Department of Energy, Planning and Development
480 Cedar Street
St. Paul, Minnesota 55101
(612) 296-3977

W. Wesley Cochrane
Assistant Commissioner

Department of Health Health Systems Division

Notice of Request for Proposals for Written Tests for Medication Administration Program for Unlicensed Personnel

The Technical Consultation and Training Section, Minnesota Department of Health, is seeking individuals or organizations with experience in test writing to develop, write and field test a minimum of four written tests for the Medication Administration Program. These tests, which will be provided under contract, are outlined in detail in the Request for Proposals (RFP) Scope of Project and Objectives. The formal RFP may be requested and inquiries should be directed to:

Marlene J. Deschler, Chief
Technical Consultation and Training Section
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

It is anticipated that the activities to accomplish this training will not exceed a total cost to the State of \$14,500. The deadline for the submission of completed proposals will be the close of the working day May 17, 1982.

Request for Proposal

I. Scope of Project

The purpose of the project is to solicit the development, writing, and field testing of a minimum of four written tests for the

Medication Administration Programs for Unlicensed Personnel which are given in area technical vocational schools, community colleges, and state institutions.

II. Objectives

A. To obtain a minimum of four written tests based upon the Medication Administration Program for Unlicensed Personnel manuals for nursing homes and for facilities for the mentally retarded.

1. Tests must be at a reading level of 7th/8th grades.
2. Tests must have a passing level of 90%.
3. Tests must cover all six units of the Medication Administration for Unlicensed Personnel manuals.
4. Tests must have a mix of questions.
5. Tests must have open book and closed book sections.
6. Tests must address at least 2 items in the *Physicians' Desk Reference*.
7. Tests must address generic drugs and drugs with trade names.
8. Length of tests must not exceed a six-hour day.

III. Project Tasks

A. To write a minimum of four written tests.

B. To validate the tests through some method of field testing which the responder should identify and describe.

IV. Project Costs

The department has established that the cost of this project should not exceed \$14,500 for professional services and expenses.

Department of Public Welfare Moose Lake State Hospital

Notice of Request for Proposals for Health-related Services

Notice is hereby given that the Moose Lake State Hospital, Department of Public Welfare, is seeking the following services for the period July 1, 1982 through June 30, 1983. These services are to be performed as requested by the administration of the Moose Lake State Hospital.

1) Services of a Radiologist to interpret X-ray films taken by the hospital's X-Ray Technician. The estimated amount of the contract will be \$11,000.00.

2) Services of a Psychiatrist to perform consultation services in psychiatry two days each week at the Moose Lake State Hospital. Other consultations will occur via phone or mail as needed and as deemed appropriate. The estimated amount of the contract is \$35,000.00.

3) Services of a specialist in Physical & Internal Medicine to perform consultation services at the Moose Lake State Hospital. The estimated amount of the contract is \$21,000.00.

Responses for the above services must be received by May 3, 1982.

Direct inquiries to:

Frank R. Milczark
Chief Executive Officer
Moose Lake State Hospital
Moose Lake, MN 55767
(218) 485-4411, Ext. 242

STATE CONTRACTS

Department of Public Welfare St. Peter State Hospital

Notice of Request for Proposals for Health-related Services

Notice is hereby given that the St. Peter State Hospital Complex, Mental Health Division, Department of Public Welfare, is seeking the following services for the period July 1, 1982 through June 30, 1983. These services are to be performed as requested by the administration of the St. Peter State Hospital Complex.

- 1) Services of a consulting psychologist to include providing psychological evaluations and examinations for patients at the St. Peter State Hospital. Preparation and presentation of lectures, consulting with staff members, teaching members of the psychology staff with regard to testing and psychological treatment. Estimated amount of contract will not exceed \$15,000.
- 2) Services of an individual who specializes in internal medicine, to provide medical evaluations of mentally ill and chemically dependent patients at St. Peter State Hospital as well as medical examinations and care of the population at Minnesota Security Hospital. This individual will provide primary care and act as a consultant to staff physicians. The estimated amount of the contract will not exceed \$25,740.
- 3) Services of a consulting psychiatrist to provide psychiatric evaluations and make recommendations with regard to psychotropic medications. Individual will aid staff in the special area of geriatric psychopharmacology and geriatric psychiatry. The estimated amount of the contract will not exceed \$18,000.
- 4) Services of a consulting psychiatrist to provide psychiatric examinations of men referred to the Intensive Treatment Program for Sexual Aggressives (ITPSA) participate in their evaluation and recommendations to courts. Consultation of patient care and program aspects of ITPSA. Psychiatric examinations on other residents, present and past, of Minnesota Security Hospital, with reports to court or review process, as requested. The estimated amount of the contract will not exceed \$15,600.
- 5) Services of a consulting psychiatrist to provide psychiatric assessment, with emphasis on use of psychotropic medications in controlling behavior, follow-up reviews and feedback reviews for developmentally disabled clients at Minnesota Valley Social Adaptation Center (MVSAC). Also, to be responsible for medication for residents on specific units at the Minnesota Security Hospital. The estimated amount of the contract will not exceed \$35,750.

Responses for the above services must be received by May 14, 1982. Direct inquiries to:

Thomas R. Bolstad
Sr. Accounting Officer
St. Peter State Hospital Complex
100 Freeman Drive
St. Peter, MN. 56082
Phone: (507) 931-7116

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 Administration Cable Communications Board

Invitation to Interested Members of the Public to Submit Their Views on Northern Cablevision of Minneapolis, Inc.'s Application for a Regular Certificate of Confirmation for the Minneapolis Cable Television Franchise

On Monday, May 10, 1982, the Minnesota Cable Communications Board will meet in special session to hear the public's views on Northern Cablevision of Minneapolis, Inc.'s application for a regular certificate of confirmation for a franchise to serve

the City of Minneapolis. All interested members of the public may submit their views on the application either in writing or orally at the board meeting.

The board invites interested persons and members of the public to submit their views at 7:00 p.m., May 10, 1982 in Room 57 of the State Office Building at 435 Park Street in the Capitol Complex. For information, call (612) 296-2545.

Department of Commerce Insurance Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Disclosure of Automobile Surcharge Plans

Notice is hereby given that the Insurance Division is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing disclosure of automobile surcharge plans. The promulgation of these rules by the commissioner is authorized by Minnesota Statutes § 65B.133.

The Insurance Division requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit written or oral information on this subject to:

William Kyle
(612) 296-6944
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

All statements of information and comment shall be accepted until June 7, 1982. Any written material received by the Insurance Division shall become part of the record in the event that the rules are promulgated.

Michael D. Markman
Commissioner of Insurance

Department of Education Vocational-Technical Education Division

Notice of Hearing

This is to announce that a public hearing will be held on Monday, May 10, 1982 at 9:00 a.m. in Room 716 of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on the recommended post-secondary aid distribution levels.

Department of Finance

Notice of Maximum Interest Rate for Municipal Obligations for Month of April 1982

Pursuant to Laws of Minnesota 1982, Chapter 523 Commissioner of Finance, Allan L. Rudell, announced today that the maximum interest rate for municipal obligations in the month of May will be 14 percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to 15 percent per annum.

The maximum interest rate for obligations authorized by resolution prior to April 1, 1982 shall be 12 percent per annum.

Office of the Governor

Notice of Vacancy

The Governor hereby announces an opening for the position of Chief Hearing Examiner, Office of Administrative Hearings.

OFFICIAL NOTICES

The appointment will be made by the Governor and his subject to confirmation by the State Senate. The appointment is for a six-year term effective July 1, 1982. The yearly salary for the position is \$40,000.

Applications are available from the Governor's Office, Room 130, State Capitol Building, St. Paul, Minnesota 55155 or by calling 612/296-3391. Candidates should file a completed application form with the Governor's Office by May 10. The Governor has formed a special task force to review candidates and recommend finalists for his consideration.

Department of Health

Notice of Application for Advanced Life Support Transportation Service

As of April 26, 1982, a complete application for advanced life support transportation service was submitted by Pat Murray, Vice President, F-M Ambulance Service, Inc., 1101 First Avenue South, Box 1892, Fargo, North Dakota, who now operates a basic life support transportation service in the same primary service area in Minnesota.

This notice is given pursuant to Minnesota Statutes § 144.802, which requires that the Commissioner of Health publish the notice in the *State Register* at the applicant's expense, and in a newspaper in the municipality in which the service will be provided, or if no newspaper is published in the municipality, or if the service would be provided in more than one municipality, in a newspaper published in the county seat of the county or counties in which the service would be provided. Each Municipality, County, Community Health Services Agency, and any other interested person wishing to comment on this application may submit comments to the Health Systems Agency in which the service applying is located. The Health Systems Agency to contact for comments concerning this application is Min-Dak Health Systems Agency, 1721 University Drive, Fargo, North Dakota 58103, Atten: Mr. Jim Dickinson, (701) 280-0002. Your comments must be submitted before the close of business on May 27, 1982.

After a public hearing has been held in one of the municipalities in which the service is to be provided, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Min-Dak Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of the receipt of the Health Systems Agencies recommendations, the Commissioner of Health shall grant or deny the license to this applicant.

State Board of Investment

Notice of Special Meeting

The State Board of Investment will meet Tuesday, April 27, 1982, at 9:00 a.m. in Room 83, State Office Building, Saint Paul.

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

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FOR LEGISLATIVE NEWS

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

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

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

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

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

Legislative Reference Library
Room 111 Capitol

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STATE REGISTER

Volume 6, numbers 44 - 52 (May 3 - June 28, 1982)

in smaller green notebook
on shelf

INDEX for Volume 6 also in notebook.