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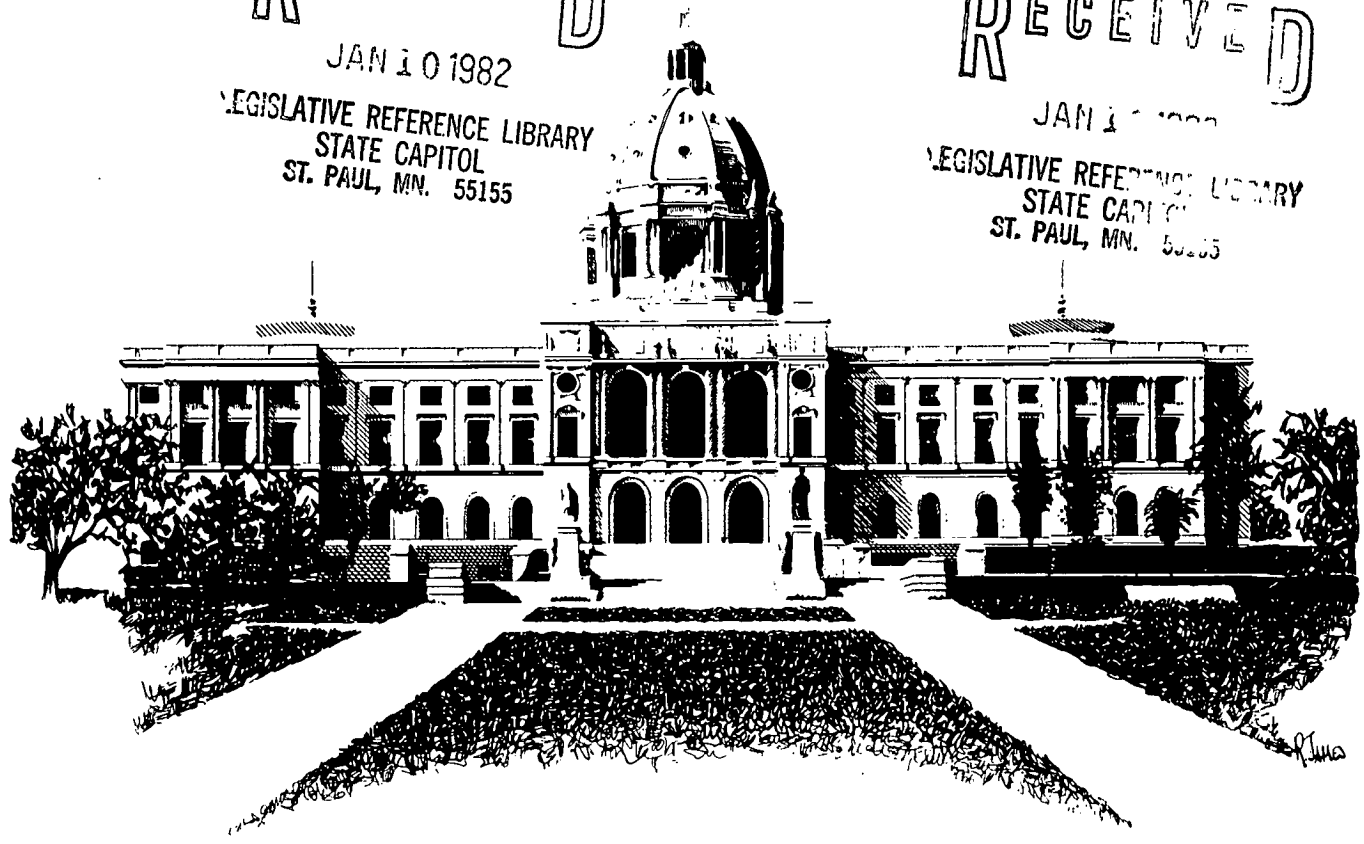
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VOLUME 7, NUMBER 28

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Printing Schedule for Agencies

Table with 4 columns: Issue Number, *Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules, *Submission deadline for State Contract Notices and other **Official Notices, Issue Date. Includes a sub-section for SCHEDULE FOR VOLUME 7 with dates from Jan 3 to Feb 7.

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

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

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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NOTICE

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

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

The **PROPOSED RULES** section contains:

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

The **ADOPTED RULES** section contains:

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

ALL **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in late summer 1983. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* 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
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
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The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

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PROPOSED RULES

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

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

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

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Public Welfare Mental Health Bureau

Proposed Rules Governing Grants for Services to Adult Mentally Ill Persons in Residential Facilities (12 MCAR §§ 2.0120-2.0129)

Notice of Intent to Adopt Rules without a Public Hearing

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

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

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

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests by February 10, 1983 to:

John Zakelj
Mental Health Bureau, DPW
Centennial Office Building
St. Paul, MN 55155
612/296-4426

Authority for the adoption of these rules is contained in Minnesota Statutes § 245.73 (Laws of 1981, Chapter 360, Article II, Section 14). Additionally, 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 John Zakelj 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 proposed for adoption will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality, including the issue of substantial change. Persons who

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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 statement of such request to John Zakelj. The adopted rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form.

The proposed rules will govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records. The grants will be made to county boards to help residential facilities meet licensing standards. This new grant program was authorized by the 1981 Legislature because most residential facilities for adult mentally ill persons do not have sufficient funding to provide services which are required under the licensing rule, 12 MCAR § 2.036 (DPW Rule 36).

These rules will replace 12 MCAR § 2.001 [Temporary] (DPW Temporary Rule 1). A number of grants have already been made on the basis of Temporary Rule 1. In the opinion of most persons involved, the process has worked very well. Therefore, with the exception of a few sections which need clarification or updating, the permanent rules are proposed to be essentially the same as the temporary rule. A change which does not affect the content of the rules is a complete renumbering to comply with new requirements from the Revisor of Statutes.

The department published proposed Temporary Rule 1 in the *State Register* on September 21, 1981 and, following the incorporation of comments, it published the adopted temporary rule on February 1, 1982. Only one letter of comment was received when the proposed temporary rule was published. No written comments have been received in response to a Notice of Intent to Solicit Outside Opinion (relating to the permanent rules) published in the *State Register* on March 1, 1982. (The deadline for comments and response to this latter notice was March 22, 1982.) One oral comment was received, expressing the concern that the authorizing legislation allows only county boards to apply for a grant; the commenter felt the rules should remove this limitation. A response to this concern would require a change in the authorizing legislation, not the rules. This is typical of the department's overall experience in implementing Temporary Rule 1: there are some concerns about the authorizing legislation, but the rules themselves have been non-controversial.

Fiscal Statement

Since it is optional for counties to apply for a grant under this rule, and since grants will be limited to whatever appropriation is made by the Legislature, these rules do not in themselves require the expenditure of any funds, state or local. The rules proposed here provide a process for allocating whatever funds the Governor and the Legislature decide to appropriate for the purposes of complying with the requirements of the Licensing Act (Minn. Stat. §§ 245.781 to 245.812) and of DPW Rule 36.

If the appropriation for Rule 36 facilities for the next two fiscal years is \$10.1 million (as has been requested by the Department of Public Welfare), and if 14 counties choose to apply for those funds (as is projected in the department's budget request), then then the costs to state and local public bodies to implement the rules proposed here will be as projected below. These are the costs to develop, review and approve grant applications, monitor grant recipients, maintain records, develop evaluation reports and otherwise carry out the requirements of the proposed rules.

	July 1, 1983 to June 30, 1984	July 1, 1984 to June 30, 1985
Costs to the State:		
1.5 full-time equivalent (FTE) staff plus supporting expenses (add 5% inflation for year 2)	\$ 45,000	\$ 47,200
Costs to the Counties:		
.25 staff plus expenses per county × 14 counties × \$30,000 per FTE (add 5% inflation for year 2)	\$105,000	\$110,200
Total costs to public bodies	\$150,000	\$157,400

These cost estimates are based on the past year's experience in implementing Temporary Rule 1. Since the proposed rules replace, and are essentially the same as, Temporary Rule 1, these costs are already included in state and county administrative budgets; no increase in costs is expected, except for inflation at a level comparable to the overall economy.

Copies of this notice, the statement of need and reasonableness and the proposed rule are available and may be obtained by contacting John Zakelj (612/296-4426).

December 23, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rule as Proposed (all new material)**12 MCAR § 2.0120 Scope.**

Rules 12 MCAR §§ 2.0120-2.0129 apply to county boards that apply individually or jointly to the Commissioner of Public Welfare for a grant under Minnesota Statutes, section 245.73. These grants are for eligible expenditures to be incurred by the county, by an eligible residential facility with which the county board contracts, or by a public or private organization or a combination of public and private organizations with which the eligible residential facility contracts.

12 MCAR § 2.0121 Definitions.

- A. Scope. The terms used in 12 MCAR §§ 2.0122-2.0129 have the meanings given them in B.-E.
- B. Adult. "Adult" means a person who is 18 years old or older.
- C. Commissioner. "Commissioner" means the Commissioner of Public Welfare or a designated representative.
- D. County Board. "County board" means the county board of commissioners or a designated representative.
- E. Mentally ill person. "Mentally ill person" means a person who has been diagnosed by a physician, a licensed psychologist, or a licensed consulting psychologist as having a condition:
 - 1. which results in an inability to interpret the environment realistically and in impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; or
 - 2. which is listed in the code range 290, 293-302.9 or 306-314.9 of the International Classification of Diseases, (ICD-9-CM) issued by the National Center for Health Statistics (Ann Arbor, Michigan: Edwards Brothers, 1978) or in the corresponding code on Axes, I, II, or III in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-III) issued by the American Psychiatric Association (Washington, D.C., 1980).

12 MCAR § 2.0122 Allocation of grants.

- A. Deadlines for applications. The commissioner shall set the deadlines for grant applications made under Minnesota Statutes, section 245.73. the commissioner shall inform county boards of the deadlines. If the commissioner establishes more than one review cycle, the term "deadline for applications" as used in B.3.-5. shall mean the deadline for the cycle in which application is made.
- B. Priorities. In response to applications and budgets that meet the requirements of 12 MCAR § 2.0123 and 12 MCAR § 2.0124, the commissioner shall allocate grants to county boards for specific eligible facilities. If the appropriation is not sufficient to fund all applications, the commissioner shall use the following order of descending priorities:
 - 1. facilities previously funded under Minnesota Statutes, section 245.73, unless otherwise indicated by law;
 - 2. facilities operating on July 1, 1980;
 - 3. facilities operating at the deadline for applications;
 - 4. new facilities opening after the deadline for applications and planning to provide a Category I program, as defined in 12 MCAR § 2.036;
 - 5. new facilities opening after the deadline for applications and planning to provide a Category II program, as defined in 12 MCAR § 2.036.
- C. First consideration. In each priority, for the biennium ending June 30, 1983, the commissioner shall give first consideration to facilities within the Rochester State Hospital catchment area counties of Dakota, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, and Winona.
- D. More than one facility in a priority. If two or more eligible facilities fall within the same priority and if the appropriation is not sufficient to fund all facilities within that priority, the commissioner shall allocate grants for those facilities which he or she deems most appropriate within the statewide continuum of care for adult mentally ill persons.
- E. Eligible facilities. The commissioner shall limit grants to facilities that can show that they will:
 - 1. submit a completed application for a license under 12 MCAR § 2.036 within three months of the effective date of the grant award;

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2. attain at least a provisional license under 12 MCAR § 2.036 within six months of the effective date of the grant award; and
3. maintain the license for the remainder of the grant period.

F. Approval of applications and budgets. The commissioner shall base his or her approval of applications and budgets on the applications' and budgets' compliance with Minnesota Statutes, section 245.73 and 12 MCAR §§ 2.0120-2.0129 and on the availability of funds within the allocation priorities in B.-D.

G. Compliance with other rules and laws. To the extent that the county board, its contracting facilities, and subcontractors are also subject to other laws and rules, they shall also meet the standards of those laws and rules to be eligible for a grant under Minnesota Statutes, section 245.73.

12 MCAR § 2.0123 Application criteria.

In order to qualify for a grant under Minnesota Statutes, section 245.73, the county board shall submit to the commissioner six completed copies of the application and budget. The county board shall complete a separately identifiable application for each facility for which a grant is requested. The application must at least:

- A. describe the persons to be served under the grant;
- B. state the measureable time-specified objectives to be accomplished with the grant (these objectives must comply with 12 MCAR § 2.0122 E.);
- C. explain how the requirements of 12 MCAR § 2.036 will be complied with;
- D. explain how the proposed services will fit into the local continuum of care;
- E. name the proposed sites and providers to be used;
- F. explain how alternative service and funding resources, including public school community education programs, will be used to the maximum extent possible in meeting the requirements of 12 MCAR § 2.036;
- G. explain how the county board will determine the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities; and
- H. briefly describe the evaluation results to date for facilities previously funded under Minnesota Statutes, section 245.73.

12 MCAR § 2.0124 Budgets.

A. Income and expenditures. A budget must accompany each application for a grant under Minnesota Statutes, section 245.73 and must be completed on budget forms provided by the commissioner. For each facility for which a grant is requested a separate budget must be submitted showing the total projected income and expenditures for that facility. Except for depreciation, the budget must represent projected cash transactions by the county, the facility, and the subcontractors. Straight-line depreciation, calculated according to generally accepted accounting principles, may be included if the purchase of the item being depreciated is not included as an expenditure in the budget for the current period or for any other budget periods.

B. Separate expenditures categories. Each budget must separate expenditures according to the following categories, as further defined in C.-F.:

1. room and board and previously funded program costs;
 2. new program costs separated into new direct service costs and other new program costs; and
 3. other costs including program costs for residents who are not adult, not mentally ill, or not Minnesota residents as defined by Minnesota Statutes, section 256E.08, subdivision 7.
- C. Room and board costs. Room and board costs must include the following costs:
1. all directly identifiable costs of normal and special diet food preparation and service;
 2. all directly identifiable costs of linen, bedding, laundering, and laundry supplies;
 3. all directly identifiable costs of housekeeping, including cleaning and lavatory supplies;
 4. all directly identifiable costs for maintenance and operation of the building and grounds, including fuel, electricity, water, supplies, and parts and tools to repair and maintain equipment and facilities; and
 5. a reasonable allocation of salaries and other costs related to 1.-4.

However, costs in 1.-5. which are new since June 1, 1981 and which are required by 12 MCAR § 2.036 are other new program costs and are not room and board costs.

D. Previously funded program costs. Previously funded program costs must include costs for any services provided before June 1, 1981, at least at the level of funding used for those services during May 1981.

E. New direct service costs. Within the limits in 12 MCAR § 2.0126 A., new direct service costs are the only costs which may be paid with state funds under Minnesota Statutes, section 245.73. New direct service costs may include the following if the costs are required by 12 MCAR § 2.036 and if the costs are new since June 1, 1981:

1. salaries and related expenses including payroll taxes, health insurance, retirement contributions, telephone, personal liability insurance, postage, recruitment, staff training, and in-state travel of personnel providing services directly to adult mentally ill residents. Support personnel are included to the extent they perform client related duties such as client record keeping, individual program planning, and on-site program supervision;

2. consumable supplies used by the personnel described in 1. in performing client related duties and by clients in carrying out program activities; and

3. minor expenditures which are shown by the county board to be essential for the facility to meet requirements of 12 MCAR § 2.036, and which cannot be paid for from local matching funds.

F. Other new program costs. Other new program costs must include all new program costs other than those already included in new direct service costs. These costs must include, but not be limited to, the costs of renovation, construction or rent of buildings, and purchase or lease of vehicles or equipment, if these costs are new since June 1, 1981, and are required by 12 MCAR § 2.036. These costs may be paid for with local matching funds, but may not be paid for with state funds provided under Minnesota Statutes, section 245.73.

G. Cost allocation. The application shall include an explanation of the allocation of indirect costs to the various budget categories.

H. Elimination or reduction in funds by state or federal government. If there has been a state or federal decision to reduce the previous level of funding for an existing program, expenditures which would otherwise be included under previously funded program costs may be included under new direct service costs or other new program costs. An application must include documentation of the elimination or reduction in funds by the state or federal government. If the previous funding was from a block grant type of funding source, the percentage reduction used for this exception must not exceed the average percentage reduction for all other services funded by the applicant county board from that funding source.

I. Limits on dollar amounts for items. The dollar amounts for the various items included in the budget must not exceed the prevailing cost of like items in the local county and the costs that prudent and cost-conscious management would pay for a given item or service.

J. Time frame for budget. The budget shall relate to a time period set by the county board within the time limits set by the appropriation.

K. Client-days. The budget shall include the projected number of client-days of service per facility and the projected cost per client per day.

12 MCAR § 2.0125 Lines of accountability and flow of funds.

A. Payments to the county board. The county board shall be the primary local entity responsible to the commissioner for use of all funds paid to it under Minnesota Statutes, section 245.73. The commissioner shall pay funds under Minnesota Statutes, section 245.73 solely to county boards submitting an application and budget approved under 12 MCAR § 2.0122 E. Payments shall be in the form of an initial advance, with subsequent quarterly payments contingent upon receipt of a completed quarterly financial report from the county board on forms provided by the commissioner. If actual expenditures by the county, its contracting facilities, and subcontractors are less than provided in the approved budget, the commissioner shall reduce the quarterly payments so that the grant remains within the limits in 12 MCAR § 2.0126 A.

B. Local review of applications. If a county board elects to apply for a grant under Minnesota Statutes, section 245.73, then before submission of the application and budget to the commissioner, the county board shall determine which facilities shall be included in the application and budget, and shall review and approve the completed application and budget.

C. Payment to the residential facility. Payment from the county board to the residential facility must be based on a contract between the county board and the facility. If this contract and the requirements of 12 MCAR §§ 2.0120-2.0129 are complied

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with, the county board shall, except as provided in F.2., pay to the facility all funds received by the county board for that facility. The county board shall determine the method of payment to the facility.

D. County board and facility contract. The contract between the county board and the facility must specify how the county board will monitor the facility's compliance with 12 MCAR §§ 2.0120-2.0129 and how the county board and the facility will monitor the subcontractors' compliance with 12 MCAR §§ 2.0120-2.0129.

E. Joint applications for a grant. If two or more county boards apply jointly for a grant, they shall designate a host county board that will carry out the responsibilities in A., C., and D. The assignment of these responsibilities must be agreed to in a contract between the host county board and the other counties.

F. Other service providers. If funds under Minnesota Statutes, section 245.73 are to be used by a service provider other than the contracting facility in C., then:

1. the amount and planned use of those funds must be identified in the application and budget for the facility whose residents will receive the service; and

2. payments to the service provider must be based on a subcontract between the facility and the service provider. This subcontract must include an agreement by the service provider to comply with 12 MCAR §§ 2.0120-2.0129. If the county board and the facility agree, payments may be made directly from the county board to the service provider.

12 MCAR § 2.0126 State and local shares.

A. Amount of grant. After approval of an application and budget, the commissioner shall award a grant equal to the lesser of 75 percent of the new program costs as defined in 12 MCAR § 2.0124 B.2.; or the new direct service costs, as defined in 12 MCAR § 2.0124 E.

B. Varying percentages of funds for more than one facility. A county board that applies for a grant for more than one facility may request varying percentages of state and local funds for each facility. The commissioner shall approve the request if the total request for all facilities for that county complies with A. and if state funds are used only for new direct service costs.

C. Amounts specified for each facility. The commissioner's award shall specify the amounts awarded for each facility.

D. Other income. If the county board, the facility, or the subcontractor receives any income other than county funds as a reimbursement for costs also funded through state or local matching funds under Minnesota Statutes, section 245.73, then:

1. except as provided in 3., the commissioner shall consider this income to be applied first to the local share;

2. if the income exceeds the local share of the approved new program costs, the commissioner shall reduce the state grant by whatever amount the income exceeds the local share; and

3. if the income is from state grants under 12 MCAR § 2.014, the commissioner shall reduce the state grant under Minnesota Statutes, section 245.73. The amount of the reduction shall equal the amount by which the other state grants are paying for costs which are also funded by state or local matching funds under Minnesota Statutes, section 245.73.

12 MCAR § 2.0127 Reporting and maintenance of records.

A. Purpose. The county board, its contracting facilities, and subcontractors shall maintain records to document compliance with 12 MCAR §§ 2.0120-2.0129 and with the objectives in the approved application.

B. Reporting forms. The county board shall use forms provided by the commissioner to report the use of funds under Minnesota Statutes, section 245.73, including the number and kinds of persons served, the cost of providing each service, results achieved, and other data deemed necessary by the commissioner. Wherever possible the commissioner shall use the same data which is required for reporting under 12 MCAR § 2.036 and under the Community Social Services Act, Minnesota Statutes, chapter 256E. The commissioner shall use these reports and the evaluation from the county board to develop the report to the legislature required by Minnesota Statutes, section 245.73.

C. Financial records. The county board, its contracting facilities, and subcontractors shall maintain financial records, using generally accepted accounting principles, in a way so that expenditures can be easily compared with the approved budget, that all sources of income can be readily identified, and that documentation is available for all expenditures.

D. Availability for audit inspection. The county board, its contracting facilities, and subcontractors shall make available for audit inspection all records required by this rule, upon request by the commissioner.

E. Minimum retention period. Unless an audit in process requires a longer retention period, the county board, its contracting facilities, and subcontractors shall use the following schedule in retaining a copy of all records required by this rule:

1. summary reports relating to the facility, at least ten years;

2. records of specific payments made and income received, at least ten years;
3. all other records, at least four years.

12 MCAR § 2.0128 Revision procedures for approved budgets and objectives.

A. Definitions. The terms "approved new program costs" and "approved objectives," as used in B.1. and C., mean those new program costs and objectives contained in an application for a grant approved by the commissioner under 12 MCAR § 2.0122 F.

B. Budget revision. After a grant award is made and as long as state funds are used for eligible expenditures under 12 MCAR §§ 2.0120-2.0129, budget revisions, including transfers between approved facilities within a county, may be made under the following conditions:

1. Revisions totaling up to ten percent of a facility's approved new program costs may be made with county board approval only. Revisions totaling in excess of that amount require both county board and commissioner's approval.
2. All requests for budget revision approval must include the reason for the revision and a statement as to how the revision will affect program objectives.

C. Revision of objectives. Approved objectives may be revised under the following conditions:

1. When a facility becomes aware that it will not be able to attain or maintain licensure as required by 12 MCAR § 2.0122 E., it shall immediately notify the county board and the commissioner. The facility and the county board shall either:

- a. immediately repay to the commissioner the remainder of the grant; or
- b. obtain approval from the commissioner to meet the required objectives at a later date.

2. The commissioner shall grant the approval required under 1.b. if, in the commissioner's judgment:

a. the failure to meet the required objectives is due to circumstances beyond the control of the facility and the county board; and

b. the facility submits a realistic, time-specified plan which includes revised objectives to attain licensure under 12 MCAR § 2.036 as soon as possible, but no later than 12 months from the effective date of the grant award.

3. The facility shall request county board and commissioner's approval at least 20 days prior to:

- a. a change in licensed capacity;
- b. a move to another location; or

c. a major change in programming, such as a change in the target population or a shift from internal to external provision of services.

4. The facility shall consult with the commissioner prior to hiring or changing the program director, to assure compliance with the qualifications in 12 MCAR § 2.036.

5. The facility shall notify the county board and the commissioner prior to a change in ownership.

6. The facility may revise objectives other than those relating to items in C.1.-3. without the commissioner's approval, as long as the revised objectives do not conflict with 12 MCAR §§ 2.0120-2.0129.

D. Delegation of county board approval. The county board may delegate its approval of budget and objective revisions if the delegation is specified in the county board minutes.

E. Commissioner's approval. The commissioner shall not grant approval for revisions unless the revisions are consistent with 12 MCAR §§ 2.0120-2.0129.

12 MCAR § 2.0129 Termination or return of a grant.

A. Funds not needed. If the commissioner determines that funds are not needed to implement the approved application, and if the county board agrees the funds are not needed, then the county board shall return the unneeded portion of the grant immediately.

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PROPOSED RULES

B. Funds not properly used. If the commissioner determines that funds are not being used according to the approved application and budget, all or part of the grant may be terminated upon 30 days notice to the affected county board with a copy to the affected facility. The commissioner may require repayment of any funds not used according to the approved application and budget. Opportunity for a hearing pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14, shall be provided before the grant is terminated or is required to be repaid.

C. Use of returned funds. The commissioner may use the funds returned under A. or B. to make new awards for other applications and budgets approved under 12 MCAR § 2.0122 F.

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 Administration Building Codes and Standards Division

Adopted Rules Governing Licensing of Manufactured Home Dealers and Manufacturers

Rules as Adopted

2 MCAR § 1.8001 Authority. Rules 2 MCAR §§ 1.8001-1.8023 are adopted by the commissioner pursuant to Laws of 1982, chapter 526, article I, section 10 to implement and administer the provisions of Laws of 1982, chapter 526, article I, sections 1 to 12 relating to the licensing of manufactured home manufacturers, dealers, and dealers' subagencies.

2 MCAR § 1.8002 Definitions.

A. Scope. The terms used in 2 MCAR §§ 1.8001-1.8023 have the meanings given them in this rule and in Laws of 1982, chapter 526, article I, section 1.

B. Applicant. "Applicant" means a person who is applying for a manufactured home manufacturer or dealer license.

C. Commissioner. "Commissioner" means the Commissioner of Administration.

D. Distributor. "Distributor" means a manufacturer.

E. Length of a manufactured home. "Length of a manufactured home" means its largest overall length in the traveling mode, including cabinets and other projections which contain interior space. Length does not include bay windows, roof projections, overhangs, or eaves under which there is no interior space, or drawbars, couplings, or hitches.

F. Licensee. "Licensee" means a person licensed under Laws of 1982, chapter 526, article I, section 4.

G. Manufacturer's sale agreement. "Manufacturer's sale agreement" means a franchise or written contract between a manufacturer and a dealer which authorizes the dealer to sell or distribute manufactured homes made by the manufacturer and establishes such things as the length of the agreement, model names, responsibility for warranty service, any other responsibilities between the parties, and, if applicable, the area of the state under contract to the dealer.

H. Width of a manufactured home. "Width of a manufactured home" means its largest overall width in the traveling mode, including cabinets and other projections which contain interior space. Width does not include bay windows, roof projections, overhangs, or eaves under which there is no interior space.

2 MCAR § 1.8003 License application.

A. Forms; requirements. An applicant shall apply for a manufacturer, dealer, or dealer subagency license on forms furnished by the commissioner and shall comply with the requirements in Laws of 1982, chapter 526, article I, section 4.

B. Required information. The kinds of information listed in 1. and 2. satisfy the related requirements in Laws of 1982, chapter 526, article I, section 4, subdivisions 3 and 4.

1. An application for a dealer's license must contain the information in a.-i.

a. A photocopy of the applicant's valid driver's license clearly showing the applicant's signature and photograph, or, if the applicant has no current driver's license, some other form of identification showing a photograph and the signature of the applicant.

b. The name under which the applicant desires to do business in this state.

If the name is an assumed name the applicant shall submit proof of filing the assumed name with the Secretary of State.

If the business is a corporation the applicant shall submit a copy of its Minnesota Certificate of Incorporation.

c. The type of business to be operated by the applicant such as manufacturing, selling (new or used), or brokering manufactured homes, and the applicant's business location.

d. The names, home and business addresses, and telephone numbers of the applicant's directors, officers, limited and general partners, controlling shareholders, and affiliates.

e. The signature of the applicant's owner, general partner, or corporate president verified under oath.

f. A statement of the applicant's qualifications for licensure as a dealer, such as education, work experience, and any other qualifications in manufactured home construction, sales, repair, or related fields involving sales, financing, title transfer, or contracts.

g. A statement of all other manufactured home dealer or manufacturer licenses held by the applicant either directly or indirectly in this or another state.

h. A statement of the type of businesses the applicant has previously been involved in, either directly or indirectly, for the past five years by company name, address, directors, officers, limited or general partners, controlling shareholders, affiliates, dates, and current business status.

i. The original copy of the surety bond required by Laws of 1982, chapter 526, article I, section 4, subdivision 4 on a form furnished by the commissioner.

2. An application for a manufacturer's license must contain the information in a.-d.

a. The name under which the applicant desires to do business in this state.

If the name is an assumed name the applicant shall submit proof of filing the assumed name with the Secretary of State.

If the business is a corporation the applicant shall submit a copy of its Minnesota Certificate of Incorporation.

b. A current list of Minnesota dealers with whom the applicant has a manufacturer's sale agreement, as required by Laws of 1982, chapter 526, article I, section 4, subdivision 4.

c. A list of the manufacturer's manufacturing facilities that will be shipping manufactured homes into this state.

d. A list of the brand names of manufactured homes that the manufacturer will ship into this state.

C. Fee. An applicant shall submit with the application required in A. the fee set in 2 MCAR § 1.8014.

D. Copy for applicant's records. An applicant shall copy the complete application, bond, and any revisions as submitted to the commissioner and shall keep the copies on file at all times at the applicant's principal place of business.

2 MCAR § 1.8004 Established place of business.

A. Proof required. The commissioner shall not grant a dealer license until the applicant has furnished the commissioner with proof that he has an established place of business, as required by Laws of 1982, chapter 526, article I, section 4, subdivision 4, and that the requirements in B.-G. have been met.

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ADOPTED RULES

B. Building or office space. An applicant for a dealer license must have a permanent enclosed building, other than a residence, or a commercial office space for the principal place of business and for each subagency location.

A manufactured home, other than a residence, qualifies as an established place of business if it is set up in a permanent manner, it is connected to sewer, water, and electricity, it is skirted, it is owned by the applicant, and it is not being offered for or subject to sale while being used as an office.

A commercial office space used as a place of business must be self-contained and must have its own entrance to a public corridor or to the exterior of the building. The commercial office space must be separated from other areas of the building by floor-to-ceiling walls.

C. Unimproved sales lots. Unimproved lots and premises may be used for sale and display of manufactured homes if they are in proximity to the applicant's principal place of business or subagency location so as to avoid confusion or uncertainty as to their relationship to the business. A photo or drawing must be submitted to the commissioner clearly indicating the relationship of the unimproved lot or premises to the business location.

D. Unimproved storage lots. Unimproved lots and premises may be used for storage of manufactured homes. The applicant shall notify the commissioner of the location of the unimproved lot or premises prior to storage of manufactured homes there.

E. Photograph. The applicant shall submit a current photograph which accurately depicts the principal place of business, each subagency location, and unimproved lots to be used for sales and display for which the applicant is requesting a license.

F. Deed, contract, or lease. The applicant shall submit a copy of a valid warranty deed, contract for deed, or lease for a term of not less than one year for the premises housing the principal place of business and each subagency.

G. Sole licensed occupant. Only one licensee may own or lease and occupy an established place of business or commercial office space. Two or more licensees may occupy one established place of business if they are related by means of ownership or area one legal entity.

2 MCAR § 1.8005 Manufacturer's sale agreement. A dealer shall furnish a copy of the contract or franchise required by Laws of 1982, chapter 526, article I, section 4, subdivision 4, clause (b), to the commissioner. The dealer shall notify the commissioner within 14 days of the time when a contract or franchise expires or becomes void.

2 MCAR § 1.8006 Trust account. A broker shall establish a trust account with a bank located in this state, and must comply with Laws of 1982, chapter 526, article I, section 8, subdivisions 3 to 5. The trust account information must be submitted on a form furnished by the commissioner.

2 MCAR § 1.8007 Returned checks. When a check is offered to the commissioner in payment for fees or changes pursuant to 2 MCAR §§ 1.8001-1.8023 and the check is returned without payment for any reason, the fee set in 2 MCAR § 1.8014 becomes due and is a part of the total obligation in addition to other consequences permitted by law and 2 MCAR §§ 1.8001-1.8023.

2 MCAR § 1.8008 Posting of license. A current license must be posted at the principal place of business and at each subagency location in a conspicuous place and clearly visible to all consumer customers. The posted license must be the license issued for the specific location at which it is posted. Only valid licenses may be posted.

2 MCAR § 1.8009 Reapplying for a license. A person whose license has been suspended, revoked, or whose license application has been denied may not reapply for a license until the error, omission, or cause for suspension, revocation, or denial has been corrected to the satisfaction of the commissioner. This does not limit the applicant's rights pursuant to Laws of 1982, chapter 526, article I, section 5, subdivision 2.

2 MCAR § 1.8010 Closing of principal place of business or subagency. When a dealer closes a principal place of business or subagency the dealer must notify the commissioner and return the appropriate license certificate within 14 days of the closing.

2 MCAR § 1.8011 License renewal. Licensees must renew their licenses pursuant to Laws of 1982, chapter 526, article I, section 4 and this rule. The commissioner shall send out renewal notices by November 15 of the year a license expires. The renewal must be submitted on forms furnished by the commissioner for principal places of business and subagencies, accompanied by the fee set in 2 MCAR § 1.8014. License renewal applications must be received by the commissioner no later than December 15 of the year a license expires. All licenses expire at midnight, December 31 of the year of expiration.

2 MCAR § 1.8012 Dealer's records. A dealer shall retain copies of all records as required by Laws of 1982, chapter 526, article I, section 6, subdivision 1. All records must be retained in one centralized place designated by the dealer. The dealer shall notify the commissioner as to the location of the records either at the principal or subagency location. All records shall be on file at the dealers designated location within 14 days after the closing of the sales transaction.

2 MCAR § 1.8013 Salespeople. Every dealer shall submit a written list to the commissioner of all salespersons employed by the dealer, as required by Laws of 1982, chapter 526, article I, section 7, subdivision 2. The list must include the starting date and, when applicable, the termination date, for each salesperson. A running list must be maintained to show all the salespersons

currently employed and previously employed. Any change of a salesperson's status must be noted on the running list and the entire list must be submitted to the commissioner within ten days of a change. A copy of the current complete salesperson list as submitted to the commissioner must be retained and kept on file at all times at the dealer's principal place of business. The format of the salesperson list shall conform to that contained in sample forms provided by the commissioner.

2 MCAR § 1.8014 Fees. Fees for licenses and services associated with 2 MCAR §§ 1.8001-1.8023 are as follows:

Initial license for principal location (remainder of calendar year)	\$100.00
Initial license for dealer subagency location	25.00
License biennial renewal	
Principal location	200.00
Dealer subagency location	50.00
Change of bonding company	5.00
Reinstatement of bond after cancellation	5.00
Duplicate license	5.00
Checks returned without payment	10.00

2 MCAR § 1.8015 Trust funds. The broker with whom trust funds are to be deposited in satisfaction of Laws of 1982, chapter 526, article I, section 8, subdivision 3, shall be the broker under contract for the sale of the manufactured home with the seller.

Trust funds must be maintained in the trust account until they are disbursed in accordance with the terms of the applicable agreements. Disbursement must be made within 14 days following the consummation or termination of a transaction if the applicable agreements are silent as to the time of disbursement.

2 MCAR § 1.8016 Notice to the commissioner.

A. Notification requirement. A licensee shall notify the commissioner of the occurrence of any of the events in B.-E.

B. Change in application information. A licensee shall notify the commissioner in writing within ten days of the change of any change in information contained in a license application on file with the commissioner.

C. Civil judgment. A licensee shall notify the commissioner in writing within ten days of any decision of a court regarding a proceeding in which the dealer was named as a defendant, and in which fraud, misrepresentation, or the conversion of funds was found to have been committed by the licensee.

D. Disciplinary action in another state. A licensee shall notify the commissioner in writing within ten days of the suspension or revocation of the licensee's manufactured home dealer license or other occupational license issued in another jurisdiction.

E. Criminal offense. A dealer shall notify the commissioner in writing within ten days if the dealer is found guilty of a felony, gross misdemeanor, misdemeanor, or any comparable offense related to manufactured home sales, improper business practices, fraud, misrepresentation, misuse of funds, or violation of the consumer laws.

2 MCAR § 1.8017 Required documents. A dealer shall furnish to the parties to a transaction at the time the documents are signed or become available, true and accurate copies of listing agreements, earnest money receipts, purchase agreements, contracts for title, option agreements, disclosure statements, energy audits, the formaldehyde warning which is required by Minnesota Statutes, section 325F.18, and other records, instruments, or documents which are material to the transaction and which are in the dealer's possession.

The format of the disclosure statement must conform to that contained in sample forms provided by the commissioner and the statement must be signed by the dealer or the dealer's authorized salesperson, the buyer, and the seller. A copy of the disclosure must be kept on file by the dealer.

2 MCAR § 1.8018 Standards of conduct. The methods, acts, or practices set forth in 2 MCAR § 1.8019 are standards of conduct governing the activities of a dealer. Failure to comply with those standards is a ground for denial, suspension, or revocation of the dealer's license.

2 MCAR § 1.8019 Responsibilities of dealers.

A. Supervision of personnel. Dealers shall closely supervise the activities of their salespersons and employees which are related to the sale of manufactured homes. Supervision includes the ongoing monitoring of listing agreements, purchase

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ADOPTED RULES

agreements, and other manufactured home documents which are prepared or drafted by the dealer's salespersons or employees or which are otherwise received by the dealer's office, and the review of all trust account books and records.

B. Preparation and safekeeping of documents. Dealers are responsible for the preparation, custody, safety, and accuracy of all manufactured home contracts, documents, and records, even though another person may be assigned these duties by the dealer.

C. Resolution of complaints. Dealers shall investigate and attempt to resolve complaints made regarding the practices of individuals employed by them.

D. Supervision of place of business. Each principal place of business and each subagency shall be under the direction and supervision of a manager. The dealer shall furnish the commissioner with the name of each manager responsible for a licensed location. Designation of a manager does not relieve the dealer of overall responsibility for the actions of salespersons or the manager.

2 MCAR § 1.8020 Disclosures by salesperson. All dealers shall require their salespersons to conduct business only under the licensed name of and on behalf of the dealer by whom they are employed or to whom they are under contract and to disclose in every transaction the name of the dealer by whom they are employed or to whom they are under contract.

2 MCAR § 1.8021 Length and width. The length and width of a manufactured home when shown on sales contracts, documents, and records is the length and width to the nearest foot as defined in 2 MCAR § 1.8002, except on an application or permit to transport a manufactured home if the total length of the manufactured home is required to include drawbars, couplings, or hitches. Room additions must be noted and measured separately.

2 MCAR § 1.8022 Disclosure. If a manufactured home being sold is located in a manufactured home park, the dealer, prior to the buyer's signing of the purchase agreement, shall obtain a written statement signed by the buyer acknowledging the dealer's disclosure of the contents of Laws of 1982, chapter 526, article II, section 7, subdivision 1, regarding in-park sales of manufactured homes.

2 MCAR § 1.8023 Enforcement. The commissioner shall administer and enforce 2 MCAR §§ 1.8001-1.8023. Any authorized representative of the commissioner may at any reasonable time enter the premises where manufactured homes are manufactured, or where new or used manufactured homes are sold, solicited, brokered, or advertised for sale, and may examine the manufacturer's or dealer's records to the extent necessary to enforce the provisions of 2 MCAR §§ 1.8001-1.8023.

Department of Health

Adopted Amendments to Life Support Transportation Service Rules (7 MCAR §§ 1.601-1.611) and Repeal of Emergency Medical Technician Registration Rules (7 MCAR §§ 1.541-1.545)

The rules proposed and published at *State Register*, Volume 6, Number 51, pages 2270-2307, June 21, 1982 (6 S.R. 2270) are adopted with the following modifications:

Rules as Adopted

7 MCAR § 1.601 Definitions.

W. Paramedic. "Paramedic" means a paramedic emergency medical technician certified under 7 MCAR § 1.626 to provide advanced life support service under the medical control of a physician and under protocols and standing orders of the licensee's medical director.

7 MCAR § 1.602 Applications for licensure.

A. Contents of all applications.

1. An application for license renewal, or for licensure of a new service, ~~change in~~ expansion of primary service area, change of base of operation, or type of service provided must be made on a form provided by the commissioner and must include, at a minimum, the following categories of information to allow a determination of compliance with the requirements of Minnesota Statutes, sections 144.801 to 144.807 and to provide sufficient information for local and regional reviews prescribed in Minnesota Statutes, section 144.802:

e. Whether the application is for a new license, license renewal, ~~change in~~ expansion of or primary service area, change of base of operations, or change in type of service provided;

7 MCAR § 1.606 Restricted treatments and procedures.

B. Restrictions. Except as authorized under 7 MCAR § 1.630 D., basic life support transportation services may not offer or provide the following:

1. Use of an esophageal obturator airway;
2. Use of a cardiac monitor or defibrillator; and
3. ~~Establishment or maintenance of intravenous lines~~ therapy or administration establishment or maintenance of intravenous infusions; and.
4. ~~Transfer of patients for whom maintenance of intravenous therapy is required.~~

C. Restrictions on transfer of patients. Basic life support transportation services may transport patients who are receiving intravenous therapy only when the following conditions are met:

1. Transportation is provided only between health care facilities; and
2. The intravenous therapy was established by the facility from which the patient is transported; and either
3. A physician, registered nurse, or paramedic accompanies the patient and rides in the patient compartment; or
4. The patient's physician provides written information and precautions to the ambulance service attendants about the intravenous therapy which the patient is receiving, the service maintains a copy of the written information in its files, and the attendant is certified under 7 MCAR § 1.624 and has completed training approved by the medical advisor in the maintenance of intravenous therapy equipment.

D. Prohibitions. Basic life support transportation services may not administer drugs other than oxygen, syrup of ipecac, and nonprescription drugs.

7 MCAR § 1.608 Ambulance standards.**A. Land ambulances.**

1. All new land ambulances purchased by a licensee after June 30, 1981, must comply with the following standards:
 - b. The door ~~openings~~ opening to the patient compartment must be a minimum of 30 inches wide and 42 inches high and the ~~doors~~ door to the patient compartment must be operable from inside the ambulance, and must be capable of being fully opened and held open by a mechanical device.

7 MCAR § 1.613 Equipment standards; advanced life support transportation services.

B. Additional equipment. In addition to compliance with the equipment standards in A., all advanced life support transportation service ambulances must carry the following equipment:

6. ~~The portable oxygen system which is required under A. must be equipped with an oxygen powered, manually cycled valve and must provide a minimum of 30 minutes continuous supply at a rate of 15 liters per minute when used with an oxygen powered, manually cycled valve.~~

7 MCAR § 1.615 Communications.**A. Standards and radio frequency assignments.**

7. Ambulances and ~~communication~~ communications bases while operating telemetry in the VHF band may use only those radio frequencies that have been approved by the Federal Communications Commission.

7 MCAR § 1.625 Intermediate emergency care course program.**A. Application for initial course program approval.**

3. Applicants who are approved to teach intermediate emergency care courses must notify the commissioner of the starting date of each course before that starting date.

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ADOPTED RULES

4. The approval of an intermediate emergency care course program expires two years from the date of approval unless renewed according to the requirements of B.

K. Skill documentation. The medical director of a licensee shall document that the applicant for certificate renewal has the skills described in G.3. This document must be submitted to the commissioner within ~~30~~ 90 days after the certificate expiration date.

7 MCAR § 1.626 Advanced emergency care course programs for paramedics.

G. Testing.

3. Examiners for practical examinations must be physicians, or registered nurses except that persons who are certified under 7 MCAR § 1.626 and who meet the requirements in 7 MCAR § 1.624 C.5. may serve as ~~sole~~ examiners ~~for the skills specified in G.4.d., and e. and accessory examiners for the skill specified in G.4.a-e.~~ A physician must be present at the practical examination and must monitor all stations of the examination and answer questions relating to the evaluation of skill performance.

7 MCAR § 1.629 Waivers.

A. Application. The commissioner ~~may~~ shall waive any of 7 MCAR §§ 1.601-1.630 except 7 MCAR § 1.630 D.5. if the applicant shows that:

B. Renewal, revocation, and reporting.

1. The commissioner ~~may~~ shall renew the waiver upon reapplication in conformance with A.
2. The commissioner ~~may~~ shall revoke a waiver if a material change occurs in the circumstances that justified granting the waiver.

7 MCAR § 1.630 Variances.

A. Application. The commissioner ~~may~~ shall grant a variance from 7 MCAR §§ 1.601-1.630 except 7 MCAR § 1.630 D.8-7. if the applicant proposes alternative practices equivalent or superior to those prescribed in the rule in question and shows that:

B. Renewal, revocation, and reporting.

1. The commissioner ~~may~~ shall renew a variance upon reapplication in conformance with A.
2. The commissioner ~~may~~ shall revoke a variance if:

D. Specific variances.

1. A basic life support transportation service licensee will be granted a variance under 7 MCAR § 1.607 C. upon compliance with the following:

a. The licensee must submit to the commissioner a list of attendants who have received ~~additional~~ medically supervised training, specifying for each attendant, the subjects covered, the length of training, the nature of the medical supervision; and

3. The commissioner ~~may~~ shall grant a variance to allow the establishment or maintenance of intravenous infusions by basic life support transportation services only if the applicant shows that:

a. It will be established or maintained by attendants or drivers who have been trained in its establishment ~~and~~ or maintenance;

5. The commissioner ~~may~~ shall grant a variance to allow the use of a portable cardiac monitor or defibrillator by a basic life support transportation service only if the applicant shows that:

6. The commissioner ~~may~~ shall grant a variance to allow the use of an esophageal obturator airway by attendants of a basic life support transportation service only if the applicant shows that:

~~7. The commissioner may grant a variance to allow basic life support transportation service licensee's to transport patients who are receiving intravenous therapy only when the following conditions are met:~~

~~a. Transportation is provided only between health care facilities; and~~

~~b. The intravenous therapy was established by the facility from which the patient is transported; and either~~

~~e. A physician, registered nurse, or paramedic from the facility from which the patient is transported or a paramedic, accompanies the patient and rides in the patient compartment in addition to the attendant required by 7 MCAR § 1.604 D.; or~~

~~d. The patient's physician provides written information and precautions to the ambulance service attendants about~~

the intravenous therapy which the patient is receiving, the service maintains a copy of the written information in its files and the attendant is certified under 7 MCAR § 1.624 and has completed training approved by the medical director in the maintenance of intravenous therapy equipment.

8. 7. Basic life support life licensees may not be granted variances for the following:

Department of Public Welfare Support Services Bureau

Adopted Rule Concerning the Investigation and Reporting of Maltreatment of Vulnerable Adults in DPW Facilities (12 MCAR § 2.010)

The rule proposed and published at *State Register*, Volume 6, Number 45, pages 1846-1850, May 10, 1982 (6 S.R. 45) is adopted with the following modifications:

Rule as Adopted

12 MCAR § 2.010 Reporting maltreatment of vulnerable adults in licensed facilities.

A. Applicability. Rule 12 MCAR § 2.010 applies to ~~residential and nonresidential programs providing services to adults and programs required to be licensed pursuant to Minnesota Statutes, sections 245.781 to 245.812 to provide services to adults who are handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap.~~

B. Definitions. As used in 12 MCAR § 2.010, the following terms have the meanings given them.

2. Agency. "Agency" means any individual, organization, association, or corporation which ~~regularly provides services to adults and is licensed by the Department of Public Welfare pursuant to Minnesota Statutes, sections 245.781 to 245.812, for gain or otherwise, regularly provides needed social service or counseling services for clients who may be living in their own homes or which receives clients unable to remain in their own homes and places them in alternate living situations, and is required to be licensed to provide these services for adults pursuant to Minnesota Statutes, sections 245.781 to 245.812 who are handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap.~~

3. Client. "Client" means ~~a vulnerable adult, as defined in 12~~ any person 18 years of age or older who is a resident of a facility or who receives services at or from a program.

5. Facility. "Facility" means a residential or nonresidential facility ~~providing services to adults and licensed by the Department of Public Welfare pursuant to Minnesota Statutes, sections 245.781 to 245.812 required to be licensed to provide services to adults who are handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap.~~

6. Plan distribution. The program shall post a copy of the plan in a prominent location in the facility and at each site when living arrangements are provided by an agency and have a copy available for review by clients, client representatives, and mandated reporters upon request.

7. Interdisciplinary team. "Interdisciplinary team" means the individuals from the various disciplines which are required by Department of Public Welfare licensing rules to be involved in program and treatment planning. ~~If only one person is designated by the rule under which the program is licensed to develop the individual program plan with the client, this person shall consult with members of other disciplines as required by that licensing rule to be involved in developing the individual program or treatment plan~~ If the licensing rule designates only one person to develop the individual program plan with the client, but requires that this person consult with members of other disciplines in developing the individual program or treatment plans, this designated person must also consult with members of these disciplines in developing the individual abuse prevention plans. The designated person plus these consulting members shall be considered the "interdisciplinary team" for purposes of 12 MCAR § 2.010.

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

ADOPTED RULES

9. Mandated reporter. "Mandated reporter" means each employee of a program and each person providing client-related services in or to a program a person specified in Minnesota Statutes, section 626.557, subdivision 3.

11. Program. "Program" means a residential or nonresidential facility or an agency providing services to adults and licensed by the Department of Public Welfare pursuant to Minnesota Statutes, sections 245.781 to 245.812 required to be licensed pursuant to Minnesota Statutes, sections 245.781 to 245.812 to provide services to adults who are handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap.

~~12. Vulnerable adult. "Vulnerable adult" means any person 18 years of age or older who is a resident of a facility or who receives services at or from a program.~~

C. Program abuse and neglect prevention plan.

1. Requirement. The program's governing body shall establish and enforce a written abuse and neglect prevention plan. This plan shall be completed within 60 days of the effective date of this rule.

2. Plan contents. The plan must contain the following information:

a. An assessment of the population, ~~the~~ environment and physical plant ~~for~~ of each facility and ~~for~~ of each site ~~when~~ where living arrangements are provided by an agency, ~~and its environment~~, identifying the factors which may encourage or permit abuse or neglect;

b. ~~A description of the specific steps which will be or have been taken to minimize the risk of abuse or neglect identified in any of the assessed areas, including physical plant repairs and modifications responsive to problems in the program's environment where necessary~~ A description of any identified corrective action that will be taken, based on the assessment, including training staff, adjusting staffing patterns, or initiating new procedures or any needed modifications of the physical plant or environment that have been identified as a result of the assessment; and

c. A timetable for the implementation of any identified corrective actions that ~~will~~ need to be taken; ~~such as training staff, initiating new procedures, or adjusting staffing patterns~~ to minimize the risk of abuse.

3. Assessment factors.

a. The assessment of the population shall include an evaluation of the following factors: the age, sex, mental functioning, physical and emotional health or behavior of clients, the need for specialized programs of care for clients, the need for training of staff to meet identified resident needs, ~~and the existence of a documented history of abuse or neglect of clients~~ and the knowledge a program may have regarding previous abuse that is relevant to minimizing risk of abuse for clients.

b. The assessment of the physical plant, ~~if required~~, for each facility and for each site when living arrangements are provided by an agency shall include an evaluation of the following factors: the condition and design of the building as ~~it relates~~ they relate to the safety of the clients and the existence of areas in the building which are difficult to supervise.

c. The assessment of the environment, ~~if required~~, for each facility and for each site when living arrangements are provided by the agency shall include an evaluation of the following factors: the location of the program in a particular neighborhood or community, the type of grounds surrounding the building, the type of internal programming, and the program's staffing patterns; ~~and the existence of a documented history of abuse or neglect by staff.~~

4. Plan review. The program's governing body shall review the plan at least annually using the assessment factors in the plan and any reports of abuse or neglect that have occurred. The governing body shall revise the plan, if necessary, so that it reflects the results of the review.

5. Plan orientation for clients. ~~The program shall provide for its clients a general orientation to the program abuse and neglect prevention plan. Client representatives shall have the opportunity to be included in the orientation. The program shall provide this initial orientation within 60 days after the effective date of this rule, and, thereafter, for each new client within 24 hours of admission~~ The program shall provide for its clients in a means familiar to them, a general orientation to the program abuse prevention plan, unless a determination has been made that a client is unable to comprehend the orientation and the reason is documented in the individual abuse prevention plan. Client representatives shall have the opportunity to be included in the orientation, and for clients unable to comprehend, client representatives shall have the opportunity to receive the orientation in place of the client. When their identities are known, client representatives must be notified when the orientation will take place. The program shall provide this initial orientation within 60 days after the effective date of this rule, and thereafter, for each new client within 24 hours of admission or for clients who would benefit more from a later orientation, the orientation may take place within 72 hours. The need for this delay shall be documented at the time of admission.

D. Individual abuse and neglect prevention plan.

1. Requirement. The client's interdisciplinary team shall develop an individual abuse and neglect prevention plan, and

this plan shall be implemented for each client. The team shall develop a plan for each current client within 60 days after the effective date of this rule and, thereafter, for each new client as part of the initial individual program plan, as required by the Department of Public Welfare rule under which the program is licensed.

2. Plan contents. The plan must be a part of the client's individual program plan and must include the following information:

a. An assessment of the client's susceptibility to abuse, including self-abuse ~~and neglect~~;

b. A statement of the ~~specific~~ measures which will be taken to minimize the risk of abuse ~~and neglect~~ to the individual client when the individual assessment indicates the need for ~~specific~~ measures in addition to the general measures specified in the program abuse ~~and neglect~~ prevention plan. The program has the responsibility to take all reasonable measures to minimize the risk of abuse to its clients. These measures shall include specific actions the program will take if the client is susceptible to abuse within the scope of licensed services. These measures shall also include referrals the program may reasonably make if the client is susceptible to abuse outside the scope of licensed services; and

c. Documentation of results of the individual assessment ~~when it does not indicate the need for specific measures in addition to the general measures specified in the program abuse and neglect prevention plan.~~

3. Plan review. The review and evaluation of the individual abuse ~~and neglect~~ prevention plan shall be done as part of the review of the client's individual program plan. The interdisciplinary team shall review the abuse ~~and neglect~~ prevention plans at least annually, utilizing the individual assessment and any reports of abuse ~~or neglect~~ relating to the client. The plan shall be revised to reflect the results of this review.

4. Client participation. Whenever possible, the client shall participate in the development of the individual abuse ~~and neglect~~ prevention plan. The client shall have the right to have a client representative participate with or for the client in the development of the plan. If the client or client representative does not participate, the reasons shall be documented by the team in the plan.

E. Internal reporting and investigation system and records.

1. Establishment. The program's governing body shall establish and enforce internal written reporting and investigating policies and procedures for abuse and neglect, including suspected or alleged abuse and neglect. The same policies and procedures shall apply in all cases, regardless of the results of the internal investigation. The program shall develop the internal reporting and investigation system within 60 days after the effective date of 12 MCAR § 2.010.

2. Reporting. The policies and procedures must include a process for the mandatory reporting of abuse or neglect of ~~vulnerable adults~~ clients. The policies and procedures must specify how reports are to be made and provide for all reports to be made promptly when a mandated reporter has reasonable cause to believe that a client is being or has been abused or neglected, or has knowledge that a client has sustained a physical injury which is not reasonably explained by the client's history of injuries. The policies and procedures shall also contain a provision that persons other than mandated reporters may and should report incidents of abuse or neglect and shall identify the persons to whom internal reports should be made. The procedure shall specify that reports may be made directly to the outside investigative authorities or to the person designated by the program or both. The person responsible for forwarding internal reports to outside authorities shall be clearly identified. All mandated reporters shall be informed of their responsibility to ensure that their report reaches the appropriate outside investigative authorities. Reporters shall be informed when a report has been forwarded and to whom it has been forwarded. Reports shall include the following information:

a. The name and location of the client and the program;

b. The nature of the abuse or neglect;

c. Pertinent dates and times;

d. Any history of abuse or neglect;

e. The name and address of the reporter;

f. The name and address of the alleged perpetrator; and

g. Any other information that might be helpful in investigating the abuse or neglect.

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ADOPTED RULES

7. Orientation for clients. ~~The program shall provide for its clients an orientation to the internal reporting system. Client representatives shall have the opportunity to be included in the orientation. The program shall provide this initial orientation within 60 days after the effective date of this rule and, thereafter, for each new client within 24 hours of admission. The program shall provide for its clients, in a means familiar to them, an orientation to the internal reporting system, unless a determination has been made that a client is unable to comprehend the orientation and the reason is documented in the individual abuse prevention plan. Client representatives shall have the opportunity to be included in the orientation, and for clients unable to comprehend, client representatives shall have the opportunity to receive the orientation in place of the client. When their identities are known, client representatives must be notified when the orientation will take place. The program shall provide this initial orientation within 60 days after the effective date of this rule, and thereafter for each new client within 24 hours of admission or for clients who would benefit more from a later orientation, the orientation may take place within 72 hours. The need for this delay shall be documented at the time of admission.~~

F. Personnel requirements.

1. Orientation of reporters. Within 60 days after the effective date of this rule, the program shall inform mandated reporters about the requirements of Minnesota Statutes, section 626.557, the provisions of 12 MCAR § 2.010, and all internal policies and procedures related to ~~vulnerable adults~~ clients. All staff shall be informed that individuals, other than those mandated to report, may report suspected cases of abuse or neglect to the appropriate investigative authorities and that staff must provide information to those requesting it regarding the procedure for contacting the authorities. Thereafter, the program shall provide this orientation for new mandated reporters ~~no later than during the first shift worked~~ within 72 hours of employment.

2. Training. The program shall conduct in-service training at least annually for mandated reporters to review Minnesota Statutes, section 626.557, the provisions of 12 MCAR § 2.010, and all internal policies and procedures related to ~~vulnerable adults~~ clients.

3. List of persons providing services. The program shall establish and maintain a current list of persons who provide services in ~~or to~~ the program who meet the definition of a mandated reporter.

SUPREME COURT

Decisions Filed Thursday, December 30, 1982

Compiled by John McCarthy, Clerk

81-1247 Voya Piletich, *et al.*, Appellants, v. George Deretich, *et al.* Dakota County.

The First Amendment does not prohibit the courts from resolving local church property disputes, where church charter, constitution and bylaws do not commit resolution of such disputes to any higher church tribunal.

The court will interpret applicable provisions of church charter, constitution, bylaws, and property deeds according to neutral principles of law approach, recently approved by United States Supreme Court in *Jones v. Wolf*, 443 U.S. 595 (1979). This approach is in harmony with previous decisions of this court.

Because disputed property was held in the name of local church, church charter and bylaws allowed local church to determine own membership, and general church constitution allows local churches to own and control own property, the majority faction of St. Sava Church is determined to be the rightful owner of real and personal property held in the name of St. Sava Church.

Affirmed. Amdahl, C. J.

82-227 State of Minnesota v. Douglas Allen Dahms, Appellant. Faribault County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-573 State of Minnesota v. Glenn A. Freyer, Appellant. Hennepin County.

Supreme court generally will not modify a sentence that is within the presumptive sentence range established by the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-444 State of Minnesota v. Clyde Rae Norton, Appellant. Hennepin County.

Presence of severe aggravating circumstances justified durational departure of greater than two times the presumptive sentence established by the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-706 State of Minnesota v. Ernest A. Brusven, Appellant. Mille Lacs County.

Trial court did not err in denying defense motion for a dispositional departure but did err in granting state's motion for a durational departure.

Affirmed as modified. Amdahl, C. J.

82-546 State of Minnesota, Plaintiff, v. Thomas J. Bouwman, Defendant. Hennepin County.

The state must establish by proof beyond a reasonable doubt that the defendant committed the act involved and intended to do so. This fact of intent is proved inferentially and expert testimony as to the mental capacity of the defendant is inappropriate at this initial stage of the trial.

Minnesota rejects the doctrine of diminished responsibility.

Remanded with instructions. Todd, J. Dissenting, Wahl, J.

81-591 State of Minnesota v. David Francis Hoffman, Appellant. Hennepin County.

The determination by the trial court that defendant's confession was voluntary is not clearly erroneous.

The right to assert the defense of mental illness is a constitutional due process right under both the Constitution of the United States and the Constitution of the State of Minnesota.

The *M'Naghten* Rule is retained in Minnesota as the standard to determine the mental capacity of the defendant.

When a defendant pleads mental illness as a defense, but does not elect to bifurcate the trial, all evidence by both the state and the defendant as to the guilt of the defendant shall be received prior to defendant offering evidence relating to mental capacity.

In any criminal prosecution evidence as to defendant's mental capability shall not be considered by the jury in determining if the state has sustained its burden of establishing the guilt of the defendant.

The trial court did not err in refusing to instruct on the lesser included offense of first degree manslaughter.

There was no jury misconduct under the facts of this case.

The closing argument of the prosecutor does not require a reversal and new trial.

Affirmed. Todd, J. Conc. spec., Scott, Peterson, Kelley, and Wahl, JJ.

OFFICIAL NOTICES

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

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

Department of Administration**Notice of State Surplus Property Sale**

In compliance with Minnesota Statutes § 94.09, et seq, the Commissioner of Administration offers for sale by sealed bid two parcels totaling about 36 acres. Formerly used as a forestry station by the DNR, the parcels are located about a mile east of Alborn and 25 miles northwest of Duluth on St. Louis County Road No. 47.

For purposes of disposition, the property has been divided into two tracts. The legal descriptions and brief physical descriptions of the two parcels are as follows:

TRACT A—In St. Louis County, Minnesota, that part of the Northeast Quarter of the Northwest Quarter (NE¼NW¼) of Section 30, Township 52 North, Range 17 West, lying north of St. Louis County Road No. 47, comprising 13.95 acres, more or

OFFICIAL NOTICES

less, subject to a lease for roadway purposes, which lease expires on October 31, 1983. Tract A is improved with a 1066± sq. ft. one-story, frame residence, a 4-stall frame garage, and a 20 × 60 storage shed. Appraised value and minimum acceptable bid is \$29,200. Bids in a lesser amount will not be accepted.

TRACT B—In St. Louis County, Minnesota, that part of the Northeast Quarter of the Northwest Quarter (NE¼NW¼) of Section 30, Township 52 North, Range 17 West, lying south of St. Louis County Road No. 47, comprising 22.35 acres, more or less. The land is wooded and unimproved. Appraised value and minimum acceptable bid is \$6000. Bids in a lesser amount will not be accepted.

The property will be made available for inspection by appointment only. Arrangements for showing may be made by contacting:

John Dowd, District Forester
Cott, Minnesota, telephone (218) 482-3219, or
Pete Hengel
Regional Field Services Supervisor
Grand Rapids, Minnesota, telephone (218) 327-1706

The bids will be opened and read aloud publicly at Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155 on February 9, 1983, at 2:30 p.m.

Bidders shall be required to submit a cashier's check with their bids in an amount not less than 10% of the bid. The checks of unsuccessful bidders will be returned.

The successful bidder will have the choice of making payment of the balance remaining after the down payment by one of the following two methods:

1. Payment in full of the balance no later than June 1, 1983; or
2. Payment of the remaining balance in not less than equal annual installments for not to exceed 5 years, with principal and interest payable annually in advance at the rate of 8% per annum on the unpaid balance, by certified check or cashier's check payable to the State Treasurer on or before June 1 of each year.

For details and bid forms contact:

Real Estate Management Division
Department of Administration
Room G-22
50 Sherburne Avenue
St. Paul, Minnesota 55155
Telephone: (612) 296-6674

Minnesota State Agricultural Society Minnesota State Fair

Notice of Annual Meeting

The 124th annual meeting of the Minnesota State Agricultural Society, governing body of the State Fair, will be held Jan. 16, 17 and 18 at the Radisson South Hotel in Bloomington. The annual meeting will be followed by meetings of the society's board of managers Jan. 18.

A completed schedule of all scheduled meetings is available during regular business hours at the Administration Building on the fairgrounds, St. Paul, or at the hotel during the meeting.

State Board of Investment

Notice of Special Meeting

The State Board of Investment will meet on Friday, January 14, 1983 at 9:00 a.m. in Room 118, State Capitol, Saint Paul.

**Department of Revenue
Estate and Fiduciary Tax Division****Notice of Correction to "Notice of Intent to Adopt a Rule without a Public Hearing"
Published with "Proposed Amendments to and Repeal of Rule Relating to
Inheritance and Estate Tax"**

Notice of correction is hereby given to the above-referenced Notice of Intent to Adopt a Rule without a Public Hearing as published January 3, 1983, at 7 S.R. 1015.

The reference to authority for adoption of the rule is incorrectly listed as Minn. Stat. § 296.27.

The authority for adoption of this rule should be Minn. Stat. § 291.31, subd. 2, which relates to the commissioner's authorization to establish rules concerning estate and inheritance taxes.

January 4, 1982

Arthur C. Roemer, Commissioner
Department of Revenue

Minnesota Teachers Retirement Association**Meeting Notice**

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, January 14, 1983, at 9 a.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to hear legislative proposals and matters which may properly come before the board.

STATE OF MINNESOTA

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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.

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