

State of Minnesota

STATE REGISTER

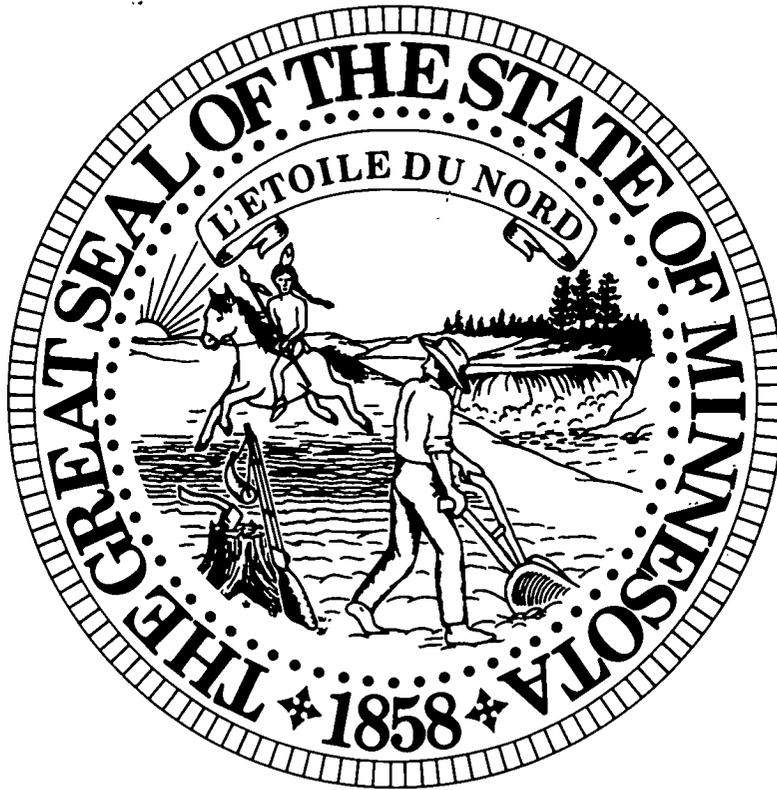
RECEIVED

Department of Administration—Documents Division

OCT 04 1988

LEGISLATIVE REFERENCE LIBRARY
STATE CAPITOL
ST. PAUL, MN. 55155

4



Published every Monday

3 October 1988

Volume 13, Number 14

Pages 795-906

STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

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, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Printing Schedule and Submission Deadlines

Vol. 13 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
14	Monday 19 September	Monday 26 September	Monday 3 October
15	Monday 26 September	Monday 3 October	Monday 10 October
16	Monday 3 October	Monday 10 October	Monday 17 October
17	Monday 10 October	Monday 17 October	Monday 24 October

*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 State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published by the State of Minnesota, Department of Administration, Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.50 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Rudy Perpich, Governor

**Sandra J. Hale, Commissioner
Department of Administration**

**Stephen A. Ordahl, Director
Minnesota Documents Division**

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie Kobold, Circulation Manager

Bonita Karels, Staff Assistant

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:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

Contents

Statement of Ownership, Management and Circulation 798

Minnesota Rules:

Amendments & Additions

Issue 14 (Issues 1-13 appeared in #13) 799

Proposed Rules

Education Board

Multicultural and gender fair curriculum 800

Environmental Quality Board

Pipeline routing 802

Health Department

Fees for food, beverage, and lodging establishments 817

Fees for manufactured home parks and recreational camping areas 817

Human Services Department

Licenses; residential-based habilitation services 824

Licensure of residential programs for persons with mental retardation or related conditions 836

Medical assistance and general assistance reimbursement 855

Reimbursement for inpatient hospital services 859

Physician and hospital certification for payment of medical assistance and general assistance medical care for inpatient hospital services 864

Psychology Board

Licensing and Fees 876

Official Notices

Proposed amendments to the Minnesota

Constitution 888

Executive Orders

#88-10: Providing for the establishment of the Governor's Council on Fire Prevention and Control 889

State Contracts & Advertised Bids

Administration Department

Materials Management Division: Contracts 890

Awards 891

Printing & Mailing Services Division: Contracts 894

Awards 895

Corrections Department

Request for proposals for providing employee physicals . . 897

Employee Relations Department

Request for proposal for a dependent care expense account program 897

Telecommunications Access for Communication Impaired Persons Board (TACIP)

Request for proposals for a study on the economic impact of implementing the TACIP program 898

Transportation Department

Goals for disadvantaged business enterprises for federal fiscal year 1989 899

Non-state Public Contracts

Metropolitan Council

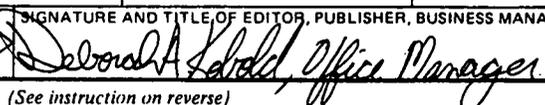
Request for proposal for aviation consulting services for the Metropolitan Council of the Twin Cities Area 899

Supreme Court Decisions

Decisions and Orders filed Friday 30 September 1988 . . . 900

Announcements 900

U.S. Postal Service
STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION
Required by 39 U.S.C. 3685

1A. TITLE OF PUBLICATION MINNESOTA STATE REGISTER		1B. PUBLICATION NO. 3 2 6 6 3 0			2. DATE OF FILING Sept 13, 1988	
3. FREQUENCY OF ISSUE Weekly		3A. NO. OF ISSUES PUBLISHED ANNUALLY 52 + Index			3B. ANNUAL SUBSCRIPTION PRICE \$130.00	
4. COMPLETE MAILING ADDRESS OF KNOWN OFFICE OF PUBLICATION <i>(Street, City, County, State and ZIP+4 Code) (Not printers)</i> State of Minnesota, Department of Administration, Minnesota State Documents Division 117 University Avenue, St. Paul, MN 55155						
5. COMPLETE MAILING ADDRESS OF THE HEADQUARTERS OF GENERAL BUSINESS OFFICES OF THE PUBLISHER <i>(Not printer)</i> SAME AS ABOVE						
6. FULL NAMES AND COMPLETE MAILING ADDRESS OF PUBLISHER, EDITOR, AND MANAGING EDITOR <i>(This item MUST NOT be blank)</i>						
PUBLISHER <i>(Name and Complete Mailing Address)</i> State Of Minnesota, Department of Administration, Minnesota State Documents Division 117 University Avenue, St. Paul, MN 55155						
EDITOR <i>(Name and Complete Mailing Address)</i> Robin PanLener, State of Minnesota, Department of Administration, Minnesota State Documents Division, 504 Rice Street, St. Paul, MN 55103						
MANAGING EDITOR <i>(Name and Complete Mailing Address)</i> 						
7. OWNER <i>(If owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding 1 percent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a partnership or other unincorporated firm, its name and address, as well as that of each individual must be given. If the publication is published by a nonprofit organization, its name and address must be stated.) (Item must be completed.)</i>						
FULL NAME				COMPLETE MAILING ADDRESS		
State of Minnesota				117 University Avenue		
Department of Administration				St. Paul, MN 55155		
Minnesota State Documents Division						
8. KNOWN BONDHOLDERS, MORTGAGEES, AND OTHER SECURITY HOLDERS OWNING OR HOLDING 1 PERCENT OR MORE OF TOTAL AMOUNT OF BONDS, MORTGAGES OR OTHER SECURITIES <i>(If there are none, so state)</i>						
FULL NAME				COMPLETE MAILING ADDRESS		
9. FOR COMPLETION BY NONPROFIT ORGANIZATIONS AUTHORIZED TO MAIL AT SPECIAL RATES <i>(Section 423.12 DMM only)</i> The purpose, function, and nonprofit status of this organization and the exempt status for Federal income tax purposes <i>(Check one)</i>						
(1) <input checked="" type="checkbox"/> HAS NOT CHANGED DURING PRECEDING 12 MONTHS		(2) <input type="checkbox"/> HAS CHANGED DURING PRECEDING 12 MONTHS		<i>(If changed, publisher must submit explanation of change with this statement.)</i>		
10. EXTENT AND NATURE OF CIRCULATION <i>(See instructions on reverse side)</i>		AVERAGE NO. COPIES EACH ISSUE DURING PRECEDING 12 MONTHS		ACTUAL NO. COPIES OF SINGLE ISSUE PUBLISHED NEAREST TO FILING DATE		
A. TOTAL NO. COPIES <i>(Net Press Run)</i>		1,310		1,075		
B. PAID AND/OR REQUESTED CIRCULATION						
1. Sales through dealers and carriers, street vendors and counter sales		30		24		
2. Mail Subscription <i>(Paid and/or requested)</i>		875		734		
C. TOTAL PAID AND/OR REQUESTED CIRCULATION <i>(Sum of 10B1 and 10B2)</i>		905		758		
D. FREE DISTRIBUTION BY MAIL, CARRIER OR OTHER MEANS SAMPLES, COMPLIMENTARY, AND OTHER FREE COPIES		124		124		
E. TOTAL DISTRIBUTION <i>(Sum of C and D)</i>		1,029		882		
F. COPIES NOT DISTRIBUTED						
1. Office use, left over, unaccounted, spoiled after printing		281		193		
2. Return from News Agents		0		0		
G. TOTAL <i>(Sum of E, F1 and 2—should equal net press run shown in A)</i>		1,310		1,075		
11. I certify that the statements made by me above are correct and complete		SIGNATURE AND TITLE OF EDITOR, PUBLISHER, BUSINESS MANAGER, OR OWNER 				

PS Form 3526, July 1984

(See instruction on reverse)

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as **Proposed Rules**. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

Education Board

3500.0550 (proposed) 800

Environmental Quality Board

4415.0010-.0215 (proposed) 802

Health Department

4625.2300; .5000 (proposed) 817

4630.2000 (proposed) 817

Psychology Board

7200.0100; .0400; .0500; .0600; .0800; .0900; .1000; .1100;

.1200; .1300; .1410; .1450; .1600; .1700; .1800; .2000;

.2600; .3000; .3200; .3500; .3510; .3605; .3610; .3620;

.3700; .3900; .4600; .4700; .4810; .4900; .5000; .5100;

.5200; .5300; .5400; .5600; .5700; .6000 (proposed) 876

7200.1400; .3600; .3800; .4800; 5200 s.6 (proposed repealer) . 876

Human Services Department

9500.1090; .1095; .1100; .1130 (proposed) 859

9500.1100 s .21a (proposed repealer) 859

9505.0500; .0510; .0520; .0521; .0522; .0530; .0540

(proposed) 864

9505.5000; .5005; .5010; .5015; .5035; .5040; .5050;

.5055; .5060; .5065; .5070; .5075; .5080; .5090; .5096;

.5100; .5105 (proposed) 855

9505.5095 (proposed repealer) 855

9525.0215-.0355 (proposed) 836

9525.0210; .0220; .0230; .0240; .0250; .0260; .0270;

.0280; .0290; .0300; .0310; .0320; .0330; .0340; .0350;

.0360; .0370; .0380; .0390; .0400; .0410; .0420; .0430

(proposed repealer) 836

9525.2000-.2140 (proposed) 824

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Education

Proposed Permanent Rules Relating to Multicultural and Gender Fair Curriculum

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota State Board of Education (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in *Minnesota Statutes* § 121.11, Subdivision 7 (1987 Supplement), and *Minnesota Statutes* § 121.11, Subdivision 12 (1986).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. That date would end on November 2, 1988, at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986 and as amended).

Comments or written requests for a public hearing must be submitted to:

Wayne Erickson, Manager
Curriculum Services Section
Minnesota Department of Education
631 Capitol Square
550 Cedar Street
St. Paul, MN 55101-2273
(612) 296-1451

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from the Curriculum Services Section, 638 Capitol Square, 550 Cedar Street, St. Paul, MN 55101-2273, (612) 296-4073.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no effect on small businesses.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11 (1986), that the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule will not exceed \$100,000 in either of the two years. The establishment and adoption of a plan for multicultural and gender-fair curriculum does not require the constitution of any additional committees or other bodies than already exist in the districts; the provisions of the rule can be accomplished within the normal, ongoing Planning, Evaluating, and Reporting (P.E.R.) Process. The only potential cost to a local school district would be

the employment of resource person(s) from outside the district when no persons of color are locally available. It is estimated that fewer than 100 school districts in the state would have such needs and that the cost per year would be less than \$1000 per district.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule, must submit the written request to Wayne Erickson, Curriculum Services Section Manager, at the address above.

Dated: 14 September 1988

Ruth E. Randall, Secretary
State Board of Education

Rules as Proposed (all new material)

3500.0550 MULTICULTURAL AND GENDER FAIR CURRICULUM.

Subpart 1. **Establishment of a plan.** The school board in each district shall adopt a written plan to assure that the curriculum developed for use in district schools establishes and maintains an inclusive educational program. An inclusive educational program is one that employs a curriculum that is developed and delivered so that students and staff gain an understanding and appreciation of:

A. The cultural diversity of the United States. Special emphasis must be placed on American Indians, Asian Americans, Black Americans, and Hispanic Americans. The program must reflect the wide range of contributions by and roles open to Americans of all races and cultures.

B. The historical and contemporary contributions of women and men to society. Special emphasis must be placed on the contributions of women. The program must reflect the wide range of contributions by and roles open to American women and men.

C. The historical and contemporary contributions to society by handicapped persons. The program must reflect the wide range of contributions by and roles open to handicapped Americans.

Subp. 2. **Specifications for the plan.** The current plan must:

A. address the manner in which the multicultural and gender fair concepts in subpart 1, items A, B, and C are to be incorporated into the curriculum goals, learner outcomes, and evaluation processes established in the district;

B. determine the extent to which the district curriculum advisory committee established by Minnesota Statutes, section 126.666, subdivision 3, will be involved in implementing this part;

C. include evidence of substantive involvement by women, persons of color, and handicapped persons in the development of the plan. In communities with no persons of color, the district shall use resource people available in the region, state, or nation whenever the plan is developed, reviewed, or revised;

D. include specific goals, objectives, and implementation timelines for the curriculum processes, content, and materials needed for each of the areas in subpart 1;

E. include procedures for systematic monitoring and evaluation of the plan; and

F. include a description of the program planned to provide inservice training for all staff in the areas related to subpart 1, items A, B, and C, and subpart 2, items D and E.

Subp. 3. **Filing, reports, review, and revision.**

A. The current plan must be on file in the administrative offices of the district and with the commissioner of education.

B. The district shall submit status reports on implementing the plan as requested by the commissioner.

C. The current plan must be reviewed at least every six years and be revised as necessary.

EFFECTIVE DATE. Minnesota Rules, part 3500.0550, is effective June 1, 1990. The plan required to be adopted under subpart 1 must be adopted before that date and must be in effect and on file in the district and with the commissioner by that date.

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

Environmental Quality Board

Proposed Permanent Rules Relating to Pipeline Routing

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Environmental Quality Board (EQB) is hereby giving notice of its intent to adopt the above-entitled rules without a public hearing under the noncontroversial rulemaking procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28 (1986). However, in order to expedite the rulemaking process should 25 or more persons request a hearing, thus necessitating that a hearing be held, the EQB is simultaneously giving notice of a hearing on the proposed rules. Unless, at least 25 persons request that the hearing be held, the hearing will be cancelled.

The EQB has elected to jointly notice rulemaking both with and without a hearing in order to avoid delay should a hearing be required. The EQB has informally discussed concerns raised over various parts of the proposed rules with concerned parties throughout the drafting of the proposed rules, and consequently believes that all known concerns have been given adequate considerations. Nevertheless, the EQB recognizes that there may be sufficient concern over the proposed rules to necessitate the holding of a public hearing.

II. Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Environmental Quality Board (EQB) proposes to adopt the above-captioned proposed rules without a public hearing following the procedures set forth in *Minnesota Statutes* sections 14.22 to 14.28 (1986). If adopted, the proposed permanent rules would regulate the location of certain pipelines which are authorized by *Minnesota Statutes*, section 1161.015.

These proposed permanent rules prescribe the circumstances and manner in which proposed pipeline routes must be reviewed through the preparation of an application and environmental review documents, and the procedures by which these reviews must be conducted and conditions for obtaining a pipeline routing permit. A free copy of the proposed permanent rules may be obtained by contacting Larry Hartman at the address or telephone number provided in this notice.

Interested persons will have 30 days from the date of this notice in the *State Register* to submit comments in support of or in opposition to the proposed rules or any part thereof. Comment is encouraged. Each comment should identify the part of the proposed rules being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within this 30-day comment period, a public hearing will be held, *unless a sufficient number withdraw their request in writing*. A public hearing, if required, will be held in accordance with the notice of hearing given in part III of this notice. Request for a public hearing must be received by the EQB by 5:00 p.m. on November 2, 1988. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the part of the proposed rules addressed by the comment, the reason for the request, and any changes suggested in the proposed rules.

If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the EQB be informed of the specific rule part on which a hearing is being requested at the time that the hearing request is made. This will enable the EQB to limit the hearing, if one is held, to the specific issues of concern, and to adopt portions of the proposed rules for which less than 25 persons request a hearing in accordance with the noncontroversial rulemaking procedures.

Comments or written requests for a public hearing should be submitted to:

Larry Hartman
Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-5089

The proposed rules may be modified if the proposed modifications are supported by the information and views submitted to the EQB and do not result in a substantial change in the proposed rules as noticed.

A statement of need and reasonableness has been prepared and may be obtained from the EQB by contacting Mr. Hartman at the

address or telephone number provided in this notice. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules.

The fees proposed in the rules, which were not specified by statute, were approved by the Commissioner of Finance as required by *Minnesota Statutes*, section 16A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the notice of intent to adopt rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules will not require the expenditure of public money by local public bodies, therefore the requirements of *Minnesota Statutes*, section 14.11, subdivision 1, do not apply.

The proposed rules will not have a direct and substantial impact on agricultural land in the state, therefore the requirements of *Minnesota Statutes*, sections 17.80 to 17.84 do not apply.

The proposed rules will not have an impact on small businesses, therefore the requirements of *Minnesota Statutes*, section 14.115 (1986) do not apply.

If a hearing is not required for adoption of the proposed rules, the rules as proposed, this notice, the statement of need and reasonableness, and all other supporting documents will be delivered to the Attorney General for review as to form and legality. Persons who wish to be notified of this submission to the Attorney General, or who wish to receive a copy of the adopted rules, must submit a written request to Mr. Hartman at the address provided in this notice.

III. Notice of Intent to Adopt a Rule With a Public Hearing If 25 or More Persons Request a Hearing

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULE WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON NOVEMBER 16, 1988 IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1986), on November 16, 1988, in room 302 of the Centennial Building, 658 Cedar Street, St. Paul, Minnesota, commencing at 9:00 a.m. Additional days may be scheduled as needed. All interested or affected persons will have an opportunity to participate, and may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence submitted should be pertinent to the matter at hand.

Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Phyllis Reha, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota, 55415, telephone 612/341-7611, either before or within five days after the hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. Written material received during this period will be available for review at the Office of Administrative Hearings. After the close of the comment period, the EQB and interested persons have three business days to respond in writing to any new information submitted during the comment period. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 (1986) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

The proposed rules would regulate the location and permitting of certain pipeline routes in the State of Minnesota. A description of the proposed rules is provided in part II of this notice. The proposed rules are authorized by *Minnesota Statutes*, section 116I.015. A free copy of the proposed rules may be obtained by writing or telephoning; Larry Hartman, Environmental Quality Board, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone 612/296-5089.

The proposed rules may be modified as a result of the rule hearing process if the modifications do not result in a substantial change in the proposed rules as noticed. Those who are potentially affected by the substance of the proposed rules are therefore advised and encouraged to participate in the process.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is available for review at the EQB offices and at the Office of Administrative Hearings. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules. Copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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 fees proposed in the rules, which were not specified by statute, were approved by the Commissioner of Finance as required by *Minnesota Statutes*, section 16A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the notice of intent to adopt rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules will not require the expenditure of public money by local public bodies, therefore the requirements of *Minnesota Statutes*, section 14.11, subdivision 1, do not apply.

The proposed rules will not have a direct and substantial impact on agricultural land in the state, therefore the requirements of *Minnesota Statutes*, sections 17.80 to 17.84 do not apply.

The proposed rules will not have an impact on small businesses, therefore the requirements of *Minnesota Statutes*, section 14.115 (1986) do not apply.

PLEASE NOTE that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the EQB may not take any final action on the proposed rules for a period of five business days. If you wish to be so notified, you may do so at the hearing. After the hearing, you may request notification by writing to the Administrative Law Judge. Any person may request notification of the date on which the proposed rules were adopted and filed with the Secretary of State. The notice will be mailed to any person requesting this notice on the same day the rule is filed. If you wish to be so notified, you may so indicate at the hearing or send a written request to the EQB at any time prior to the filing of the rule with the Secretary of State.

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

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any given month or more that \$250.00, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more that \$250.00 not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislation 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.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To learn whether the hearing will be held, please call Mr. Hartman at (612) 296-5089 before November 3, 1988 and leave your name, address, and telephone number. You will be notified after November 3, 1988, if the hearing has been cancelled. You may also call Mr. Hartman after November 3, 1988, for oral confirmation regarding the scheduled hearing.

Dated: 19 September 1988

John C. Ditmore, Chair

Rules as Proposed (all new material)

4415.0010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in *Minnesota Statutes*, section 116I.015, and subparts 2 to 35 apply to this chapter.

Subp. 2. **Act.** "Act" has the meaning given it in *Minnesota Statutes*, section 116I.015.

Subp. 3. **Affected landowner.** "Affected landowner" means an owner or lessee of record of real property, any part of which is within the proposed pipeline route.

Subp. 4. **Authorized representative or agent.** "Authorized representative" or "agent" means a person who is authorized to act as a contact person on behalf of the applicant or permittee.

Subp. 5. **Applicant.** "Applicant" means any person or persons who apply to the board for a conditional exclusion, partial exemption, pipeline route selection, or emergency.

Subp. 6. **Application.** "Application" means a document submitted by a person or persons to the board for conditional exclusion, partial exemption, pipeline route selection, or emergency, the contents of which are described in this chapter.

Subp. 7. **Associated facilities.** "Associated facilities" means all parts of those physical facilities through which hazardous liquids or gas moves in transportation, including but not limited to pipe, valves, and other appurtenances connected or attached to pipe,

pumping and compressor units, fabricated assemblies associated with pumping and compressor units, metering and delivery stations, regulation stations, holders, breakout tanks, fabricated assemblies, cathodic protection equipment, telemetering equipment, and communication instrumentation located on the right-of-way.

Subp. 8. **Barrel.** "Barrel" has the meaning given in part 4250.0100, subpart 5.

Subp. 9. **Board.** "Board" means the Minnesota Environmental Quality Board.

Subp. 10. **Btu.** "Btu" has the meaning given in part 4250.0100, subpart 6.

Subp. 11. **Chair.** "Chair" is the person defined in part 4405.0100, subpart 4, or in the absence of the chair, the vice-chair defined in part 4405.0100, subpart 21.

Subp. 12. **Construction.** "Construction" means any clearing of land, excavation, or other action for the purpose of constructing new pipeline that would adversely affect the natural environment of a pipeline route. Construction does not include changes needed for temporary use of a route for purposes of maintenance, repair, or replacement of an existing pipeline and associated facilities within existing rights-of-way, or for the minor relocation of less than three-quarters of a mile of an existing pipeline or for securing survey or geological data, including necessary borings to ascertain soil conditions.

Subp. 13. **Design day.** "Design day" has the meaning given in part 4230.0100, subpart 6.

Subp. 14. **Environment.** "Environment" means physical conditions existing in the area that may be affected by a proposed pipeline and associated facilities. It includes land, air, water, minerals, flora, fauna, ambient noise, energy resources, natural features, or man-made objects of historic, archaeological, geologic, or aesthetic significance.

Subp. 15. **Equivalent Mcf.** "Equivalent Mcf" has the meaning given in part 4230.0100, subpart 9.

Subp. 16. **Filed.** "Filed" means submitted to the board. A document is considered filed with the board when it is received by the board.

Subp. 17. **Gas.** "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

Subp. 18. **Gas volume.** "Gas volume" has the meaning given in part 4230.0100, subpart 12.

Subp. 19. **Hazardous liquid.** "Hazardous liquid" means petroleum, petroleum products, or anhydrous ammonia.

Subp. 20. **Liquefied gas.** "Liquefied gas" has the meaning given in part 4230.0100, subpart 17.

Subp. 21. **Liquefied petroleum gas; LPG.** "Liquefied petroleum gas" or "LPG" has the meaning given in part 4250.0100, subpart 16.

Subp. 22. **Mcf.** "Mcf" has the meaning given in part 4270.0100, subpart 21.

Subp. 23. **Permittee.** "Permittee" means any person to whom a pipeline routing permit is issued.

Subp. 24. **Person.** "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subp. 25. **Pipe.** "Pipe" means any pipe or tube through which hazardous liquids or gas flows or is conveyed from one point to another.

Subp. 26. **Pipeline.** "Pipeline" means:

A. pipe with a nominal diameter of six inches or more that is designed to transport hazardous liquids, but does not include pipe designed to transport a hazardous liquid by gravity, and pipe designed to transport or store a hazardous liquid within a refining, storage, or manufacturing facility; or

B. pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas.

Subp. 27. **Pipeline company.** "Pipeline company" means an entity that operates a pipeline.

Subp. 28. **Pipeline project or project.** "Pipeline project" or "project" means a pipeline and associated facilities that are planned or under construction.

Subp. 29. **Pipeline routing permit.** "Pipeline routing permit" means the written document issued by the board to the permittee

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

that designates a route for a pipeline and associated facilities, conditions for right-of-way preparation, construction, clean-up, and restoration. The permit may not set safety standards for pipeline construction.

Subp. 30. **Public adviser.** "Public adviser" means a staff person designated by the board for the sole purpose of assisting and advising any person on how to effectively participate in the pipeline route selection procedures.

Subp. 31. **Right-of-way.** "Right-of-way" means the interest in real property used or proposed to be used within a route to accommodate a pipeline and associated facilities.

Subp. 32. **Route.** "Route" means the proposed location of a pipeline between two end points. A route may have a variable width from the minimum required for the pipeline right-of-way up to 1.25 miles.

Subp. 33. **Route segment.** "Route segment" means a portion of a route.

Subp. 34. **Shelterbelt.** "Shelterbelt" means the barrier zone of grasses, shrubs, and trees, or any combination of them, planted to protect crops, soil, and other sensitive areas against erosion.

Subp. 35. **Synthetic gas.** "Synthetic gas" has the meaning given in part 4230.0100, subpart 27.

4415.0015 AUTHORITY, SCOPE, PURPOSE, AND OBJECTIVES.

Subpart 1. **Authority.** This chapter is adopted under authority granted in Minnesota Statutes, section 116I.015, to implement review procedures for the routing of pipelines that give effect to the purposes of the act.

Subp. 2. **Scope.** This chapter applies to pipelines defined in Minnesota Statutes, section 116I.015, unless preempted by federal law or excluded by statute or this chapter. This chapter does not set safety standards for the design or construction of pipelines. The issuance of a pipeline routing permit under Minnesota Statutes, section 116I.015, and this chapter for the subsequent purchase and use of a right-of-way with the route is the only site approval required to be obtained by the person owning or constructing the pipeline. The pipeline routing permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances adopted by regional, county, local, or special purpose governments, as provided in Minnesota Statutes, section 116I.015, subdivision 4. The pipeline routing permit must not contravene applicable state or federal jurisdiction, rules, or regulations that govern safety standards for pipelines nor shall the permit set safety standards for the design or construction of pipelines.

Subp. 3. **Purpose.** Minnesota Statutes, section 116I.015, recognizes that pipeline location and restoration of the affected area after construction is important to citizens and their welfare and that the presence or location of a pipeline may have a significant impact on humans and the environment.

To properly assess and determine the location of a pipeline, it is necessary to understand the impact that a proposed pipeline project will have on the environment. Pipeline route designation procedures, proper pipeline right-of-way preparation, construction practices, and restoration of the affected area will lessen or mitigate the impacts of the proposed pipeline project on humans and the environment. The purpose of this chapter is to aid in the selection of a pipeline route and to aid in the understanding of its impacts and how those impacts may be reduced or mitigated through the preparation and review of information contained in pipeline routing permit applications and environmental review documents.

Subp. 4. **Objectives.** The process created by this chapter is designed to:

- A. locate proposed pipelines in an orderly manner that minimizes adverse human and environmental impact;
- B. provide information to the project proposer, governmental decision makers, and the public concerning the primary human and environmental effects of a proposed pipeline project;
- C. reduce delay, uncertainty, and duplication in the review process; and
- D. ensure that pipeline routing permit needs are met and fulfilled in an orderly and timely manner.

4415.0020 APPLICABILITY OF RULES.

Subpart 1. **Exclusions.** This chapter does not apply to:

- A. temporary use of a route for purposes other than installation of a pipeline;
- B. securing survey and geological data;
- C. repair or replacement of an existing pipeline within an existing right-of-way;
- D. minor relocation of less than three-quarters of a mile of an existing pipeline;
- E. pipe designed to transport a hazardous liquid by gravity;
- F. pipe designed to transport or store a hazardous liquid within a refining, storage, or manufacturing facility;
- G. associated facilities when they are being constructed as an addition to an existing pipeline;
- H. maintenance activities on existing pipeline rights-of-way; and

I. natural gas pipelines occupying streets, highways, or other public property within a municipality under rights granted under Minnesota Statutes, section 216B.36.

Subp. 2. **Conditional exclusion.** This chapter does not apply to construction of a new pipeline in a right-of-way in which a pipeline has been constructed before July 1, 1988, or in a right-of-way that has been approved by the board after July 1, 1988, except when the board determines that there is a significant chance of an adverse effect on the environment or that there has been a significant change in land use or population density in or near the right-of-way since the first construction of a pipeline within the right-of-way, or since the board first approved the route within which the right-of-way is located. Part 4415.0030 addresses conditional exclusion procedures.

Subp. 3. **Partial exemption.** The board may exempt a proposed pipeline from part of the pipeline routing permit procedures in emergencies or if the board determines that the proposed pipeline will not have a significant impact on humans or the environment. Part 4415.0025 addresses emergency procedures and part 4415.0035 addresses partial exemption procedures.

Subp. 4. **Pipeline route selection.** If the board does not grant a partial exemption or if the pipeline company chooses not to apply for a partial exemption, the pipeline company may submit an application for pipeline route selection and a pipeline routing permit. Part 4415.0040 addresses pipeline route selection procedures.

Subp. 5. **Denial of request.** Application costs for a conditional exclusion, partial exemption, pipeline route selection, or emergency are borne by the applicant as determined in part 4415.0210. If the board denies an applicant's request for a conditional exclusion, partial exemption, or emergency, the applicant remains responsible for the actual costs and any additional time required for any other application procedures and requirements necessary for further action by the board.

EMERGENCY PROCEDURES

4415.0025 PIPELINE EMERGENCY ACTION AND PROCEDURES.

Subpart 1. **Pipeline emergency action.** In the rare situation where immediate action by a pipeline company whose pipeline system requires the immediate construction of a pipeline is considered essential to avoid or eliminate an imminent threat, prevent injury, loss of life, property damage, or loss of essential public services, a pipeline project may be undertaken without the review that would otherwise be required by this chapter.

Subp. 2. **Pipeline emergency procedures.** The pipeline company shall notify and demonstrate to the chair, either orally or in writing, that immediate action is essential and must receive temporary authorization from the chair to proceed. All oral requests must be followed by a written request within three working days. Temporary authorization to proceed must be determined by the chair as soon as possible after the request is made and must be limited to only those aspects of the project necessary to control the immediate impacts of the emergency.

A. If temporary authorization to proceed is granted by the chair, the pipeline company must appear at the next board meeting to seek authorization from the board to continue activities necessary to remedy the emergency. Other aspects of the project remain subject to review under this chapter.

B. If temporary authorization to proceed is denied by the chair, the pipeline company may request and be granted an immediate special meeting of the board under part 4405.0600, subpart 4. The board shall then determine whether a pipeline emergency exists and whether temporary authorization for the pipeline company to proceed with immediate construction is appropriate.

CONDITIONAL EXCLUSION PROCEDURES

4415.0030 CONDITIONAL EXCLUSION PROCEDURES AND DETERMINATION.

Subpart 1. **Procedures.** A pipeline company having a reasonable basis to assert that a pipeline routing permit is not required to construct or operate a proposed pipeline under Minnesota Statutes, section 116I.015, shall so notify the board and the county board of each county through which the pipeline will be constructed. The board shall make a determination on whether to grant a conditional exclusion provided for in part 4415.0020, subpart 2, only when the pipeline company:

A. completes the environmental assessment worksheet (EAW) review procedures as provided in parts 4410.1000 to 4410.1700; and

B. provides information that will allow the board to determine if there has been a significant change in land use or population

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

density in or near the right-of-way since the first construction of pipeline in the right-of-way, or since the board first approved the right-of-way. This information will be distributed with the EAW for comments.

Subp. 2. **Determination.** Based on the record of the EAW decision, including the information required by part 4415.0030, subpart 1, item B, the board shall grant a conditional exclusion unless it finds that:

A. there is a significant chance of an adverse effect on the environment; or

B. there has been a significant change in land use or population density in or near the right-of-way since the first construction of the pipeline in the right-of-way, or since the board first approved the right-of-way.

Subp. 3. **Granting of conditional exclusion.** When an exclusion is granted, the applicant must comply with the requirements provided by Minnesota Statutes, sections 116I.02 and 117.49. No further review under Minnesota Statutes, section 116I.015, and this chapter is required.

Subp. 4. **Denial of exclusion.** If the board does not grant an exclusion, the pipeline company may submit an application for a pipeline routing permit under either the partial exemption procedures in parts 4415.0035 to 4415.0040 or the full pipeline route selection procedures in parts 4415.0045 to 4415.0100.

EXEMPTION FROM ROUTE SELECTION PROCEDURE

4415.0035 PARTIAL EXEMPTION FROM PIPELINE ROUTE SELECTION PROCEDURES.

Subpart 1. **Partial exemption procedures.** A person may apply to the board for partial exemption from the pipeline route selection procedures for the issuance of a pipeline routing permit. To apply for a partial exemption, a person must comply with the application procedures of part 4415.0105 and submit an application that contains the information identified in parts 4415.0115 to 4415.0165. The board shall decide whether to grant or deny the partial exemption within 90 days after board acceptance of the partial exemption application.

Subp. 2. **Notice of partial exemption application.** Within 15 days of board acceptance of an application for partial exemption, the applicant shall:

A. provide published notice, including a description of the proposed project, including size and type, and a map of the proposed pipeline route in each county in which the route is proposed to be located;

B. comply with application distribution requirements of part 4415.0105, subpart 6; and

C. send by certified mail a copy of the partial exemption application and a clear description of the procedures that must be followed for commenting on the partial exemption to the chair or chief executive of any regional development commission, county, incorporated municipality, organized town, and to affected landowners.

Subp. 3. **Comments on partial exemption.** A person may file comments with the board within 30 days after giving notice under subpart 2, item C, stating reasons why the board should grant or deny the partial exemption.

Subp. 4. **Public information meetings.** The board shall conduct a public information meeting in each county in which the pipeline and associated facilities are proposed to be located. The purpose of the public information meetings is to assist the board in determining whether to grant or deny the partial exemption.

Subp. 5. **Determination of partial exemption.** In deciding whether to grant or deny the partial exemption, the board shall consider any comments that are filed, the record of the public information meetings, and the information contained in the application relevant to the criteria for partial exemption in part 4415.0040. If the board grants the partial exemption from the pipeline route selection procedures in parts 4415.0045 to 4415.0100, the board must state in writing its reasons for supporting the partial exemption and must issue a pipeline routing permit in accordance with part 4415.0175.

Subp. 6. **Denial of partial exemption.** When a partial exemption is denied, the applicant must be notified in writing of the reasons for denial. A denial is without prejudice to the applicant's right to an appearance before the board, filing information after revisions are made to meet objections specified as reasons for the denial, or to request that the board continue processing its application under full pipeline route selection procedures contained in parts 4415.0045 to 4415.0100 for a pipeline routing permit.

4415.0040 CRITERIA FOR PARTIAL EXEMPTION FROM PIPELINE ROUTE SELECTION PROCEDURES.

Subpart 1. **Scope and purpose of criteria.** The scope and purpose of this part is to specify the criteria used by the board in determining whether to grant a partial exemption from the pipeline route selection procedures. The board shall make a specific written finding with respect to each of the criteria. Any new easements or right-of-way agreements obtained from potentially affected landowners before issuance of a pipeline routing permit are at the sole risk of the applicant. The fact that the agreements have been obtained shall not be considered by the board in selecting the route.

Subp. 2. **Standard.** In granting a partial exemption from the pipeline route selection procedures, the board must determine that

the proposed pipeline and associated facilities will not have a significant impact on humans or the environment. The board shall evaluate the impacts that may be reasonably expected to occur from the proposed pipeline and associated facilities.

Subp. 3. **Criteria.** In determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a pipeline routing permit, the board shall consider the impact of the pipeline and associated facilities on the following:

- A. human settlement, existence and density of populated areas, existing and planned future land use, and management plans;
- B. the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands;
- C. lands of historical, archaeological, and cultural significance;
- D. economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations;
- E. pipeline cost and accessibility;
- F. use of existing rights-of-way and right-of-way sharing or paralleling;
- G. natural resources and features;
- H. the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 4415.0185 for pipeline right-of-way preparation, construction, cleanup, and restoration practices;
- I. cumulative potential effect of related or anticipated future pipeline construction; and
- J. relevant policies, rules, and regulations of the state and federal agencies and local government land use laws including ordinances adopted under Minnesota Statutes, section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.

PIPELINE ROUTE SELECTION PROCEDURES

4415.0045 APPLICATION PROCEDURES AND REQUIREMENTS.

A person submitting an application for a pipeline routing permit must comply with the application procedures of part 4415.0105 and submit an application that contains the information required in parts 4415.0115 to 4415.0170. Within nine months from board acceptance of an application for route selection, unless the board by resolution extends this deadline for cause, the board shall issue a pipeline routing permit for the proposed pipeline and associated facilities.

4415.0050 NOTICE OF APPLICATION ACCEPTANCE.

Within 20 days of board acceptance of an application for a pipeline routing permit under part 4415.0105, subpart 4, the board shall provide published notice of acceptance of the application in a newspaper in each county in which a route is proposed by the applicant.

The notice must include:

- A. identification of the applicant;
- B. the date of the board's acceptance of the application;
- C. a brief description of the proposed facility including but not limited to size and type;
- D. a map showing the routes proposed in that county;
- E. the name and function of the public adviser and the address and telephone number where that person can be reached;
- F. locations where the pipeline routing permit application is available to the public;
- G. procedures for proposing alternate routes; and
- H. notice of public information meetings.

4415.0055 APPOINTMENT OF CITIZEN ADVISORY COMMITTEES.

The board may establish citizen advisory committees to aid and advise the board in evaluating routes for pipelines. The board shall provide guidance to the advisory committee in the form of a charge to the committee and through specific requests to it.

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

4415.0060 CITIZEN ADVISORY COMMITTEE MEMBERSHIP.

Citizen advisory committees appointed to evaluate routes considered for designation shall be comprised of as many persons as may be designated by the board, but at least one representative from each of the following: a regional development commission, the county, a municipal corporation, and a town board from each county in which a route is proposed to be located. No officer, agent, or employee of the applicant shall serve on the citizen's advisory committee.

4415.0065 PUBLIC ADVISER.

The public adviser shall be available to any person to advise that person how to effectively participate in route selection procedures. The public adviser is not authorized to give legal advice or advice that may affect the legal rights of the person being advised or to act as an advocate.

4415.0070 PUBLIC INFORMATION MEETINGS.

Subpart 1. **Requirements.** The board shall hold public information meetings as provided in this subpart.

A. After acceptance of an application for pipeline route selection, the board shall hold at least one public information meeting in each county crossed by the applicant's preferred pipeline route to explain the route designation process and to respond to questions raised by the public.

B. Before public hearings held to consider the routes accepted for consideration by the board, the board shall hold a public information meeting in each county through which a route is proposed to explain the route designation process, present major issues, and respond to questions raised by the public.

Subp. 2. **Notice of public information meetings.** Published notice of the date, time, and location of public information meetings shall be placed in a newspaper in each county in which a route is proposed at least ten calendar days before the public information meeting.

4415.0075 ACCEPTANCE OF ROUTE PROPOSALS.

Subpart 1. **Acceptance for consideration.** The board shall accept for consideration at the public hearing the routes and route segments proposed by the applicant and may accept for public hearing any other route or route segment it considers appropriate for further consideration. No route shall be considered at the public hearing unless accepted by the board before notice of the hearing. Routes accepted shall be identified by the board in accordance with part 4415.0085. A proposer of a route or route segment that the board has accepted for consideration at the hearing shall make an affirmative presentation of facts on the merits of the route proposal at the public hearing.

Subp. 2. **Sources of route proposals.** The board member agencies, board staff, and the citizen advisory committee may propose routes or route segments directly to the board. Route proposals made by the citizen advisory committee must be made no later than 70 days after appointment of the citizen advisory committee.

Subp. 3. **Requirements for other route sources.** A person other than one listed in subpart 2 may propose a route or a route segment according to items A to C.

A. The proposed pipeline route or route segment must be set out specifically on appropriate maps or aerial photos specified in part 4415.0140, subpart 1.

B. The pipeline route or route segment proposal must contain the data and analysis required in parts 4415.0140, subpart 3, and 4415.0145, unless the information is substantially the same as provided by the applicant.

C. The route proposal must be presented to the chair within 70 days of acceptance by the board of the applicant's permit application.

Subp. 4. **Preparation of route proposal.** Within ten days of receipt of a route proposal from a source described in subpart 3, the chair shall determine if the route proposal contains the information required in subpart 3. If the chair determines that the route proposal contains the required information, the chair shall forward the route proposal to the board for a determination of acceptance for hearing. If the chair determines that the proposal does not contain the required information, the chair shall inform the proposer in writing of what additional information is required. Upon receipt of a request for additional information, the proposer has ten days to provide the additional information in writing to the chair. The chair shall determine within five working days whether the amended proposal contains the required information. If the chair then determines that the route proposal does not contain the required information, the route proposer may appeal to the board at its next regular meeting for consideration of acceptance. If the proposal contains the required information, the board must consider acceptance of the route proposal for public hearing.

4415.0080 ANALYSIS OF ALTERNATIVES.

Subpart 1. **Analysis of alternative routes.** A comparative environmental analysis of all of the pipeline routes accepted for consideration at public hearings shall be prepared by the applicant and reviewed by the board staff. The environmental analysis must be submitted as prefiled testimony as required by part 1405.1900.

Subp. 2. **Other alternatives.** If the proposed pipeline does not meet the certificate of need requirement of Minnesota Statutes, section 216B.243, the discussion of other alternatives may include design and sizing options, energy alternatives, or alternative means by which the purpose of the project could be met. Alternatives that were considered but eliminated must be discussed briefly and the reasons for their elimination must be stated.

4415.0085 PUBLISHED NOTICE OF ROUTES ACCEPTED.

Prior to public hearings, the board shall provide published notice of route location in each county in which a route is accepted for consideration at the public hearings according to the requirements of this chapter.

4415.0090 PUBLIC HEARINGS.

The board shall hold a public hearing for the purposes of collecting and verifying data, and establishing a complete record upon which to base a decision for designation of a route and issuance of a pipeline routing permit. The board shall follow the hearing procedure prescribed in chapter 1405. The hearing will be conducted by an administrative law judge from the Office of Administrative Hearings.

4415.0095 ROUTE SELECTION AND BOARD DECISION.

The board's route selection decision shall be based on the public hearing record and made in accordance with part 4415.0100. The board shall give the reasons for its decision in written findings of fact.

4415.0100 CRITERIA FOR PIPELINE ROUTE SELECTION.

Subpart 1. **Scope and purpose of criteria.** The scope and purpose of this part is to specify the criteria used by the board in determining the route of a pipeline in parts 4415.0045 to 4415.0100. The board shall make a specific written finding with respect to each of the criteria. Any new easements or right-of-way agreements obtained from potentially affected landowners before issuance of a pipeline routing permit are obtained at the sole risk of the applicant. The fact that the agreements have been obtained shall not be considered by the board in selecting the route.

Subp. 2. **Standard.** In determining the route of a proposed pipeline, the board shall consider the characteristics, the potential impacts, and methods to minimize or mitigate the potential impacts of all proposed routes so that it may select a route that minimizes human and environmental impact.

Subp. 3. **Criteria.** In selecting a route for designation and issuance of a pipeline routing permit, the board shall consider the impact on the pipeline of the following:

- A. human settlement, existence and density of populated areas, existing and planned future land use, and management plans;
- B. the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands;
- C. lands of historical, archaeological, and cultural significance;
- D. economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations;
- E. pipeline cost and accessibility;
- F. use of existing rights-of-way and right-of-way sharing or paralleling;
- G. natural resources and features;
- H. the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 4415.0185 for pipeline right-of-way preparation, construction, cleanup, and restoration practices;
- I. cumulative potential effects of related or anticipated future pipeline construction; and
- J. the relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws including ordinances adopted under Minnesota Statutes, section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.

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

APPLICATION PROCEDURES

4415.0105 PROCEDURAL REQUIREMENTS.

Subpart 1. **Application filing.** Each application for a pipeline routing permit must be filed in the format and manner prescribed by this chapter.

Subp. 2. **Format.** Applications must be filed on 8-1/2 by 11-inch paper except for drawings, illustrations, maps, and similar materials. The date of preparation and the applicant's name must appear on each document filed with the application.

Subp. 3. **Subsequent filings.** Any change or correction made to the application after filing must comply with subparts 2 and 6. In addition, each page of a change or correction to a previously filed page must be marked with the word "REVISED" and with the date the revision was made. The applicant shall send copies of changed or corrected pages to all persons required by subpart 6 and part 4415.0035, subpart 2, item C.

Subp. 4. **Application filing and acceptance.** The board shall accept, conditionally accept, or reject an application at its first regularly scheduled meeting after the application is filed with the board, provided the application is filed at least 21 days before that meeting. The board may conditionally accept or reject an application, but in both instances the board shall inform the applicant which deficiencies, if corrected, will allow the application to be accepted. If an applicant has corrected the deficiencies or provided the board with the deficient information 14 days in advance of a regularly scheduled board meeting, the board must reconsider acceptance of the application at that meeting. If the board fails to act at the first scheduled meeting after the application is filed, the application is considered accepted. On acceptance or conditional acceptance of the application, the board and the applicant shall initiate the actions required by part 4415.0035, subpart 2, or 4415.0050, as applicable. After acceptance of an application, the applicant shall provide any additional relevant information the board considers necessary to process the application.

Subp. 5. **Copies.** The unbound original and 40 copies of the application must be filed with the board.

Subp. 6. **Application distribution.** The applicant shall provide copies of the application accepted by the board to other state agencies who are not board members, but have regulatory responsibilities for the proposed pipeline. The applicant shall send a copy of the accepted application to the Minnesota Historical Society, to the office of each regional development commission of a development region, soil and water conservation district, watershed district, watershed management district, auditor of each county, and to the clerk of each township and city, crossed by the proposed pipeline. Each county auditor, city clerk, or township clerk shall retain and file the application in a manner making it accessible to the public. The applicant shall also provide one copy of the application to any person upon request. The applicant shall maintain a list of the persons to whom copies are sent.

CONTENTS OF APPLICATION

4415.0115 GENERAL INFORMATION.

Subpart 1. **Cover letter.** Each application must be accompanied by a cover letter signed by an authorized representative or agent of the applicant. The cover letter must specify the type, size, and general characteristics of the pipeline for which an application is submitted.

Subp. 2. **Title page and table of contents.** Each application must contain a title page and a complete table of contents.

Subp. 3. **Statement of ownership.** Each application must include a statement of proposed ownership of the pipeline as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the pipeline project.

Subp. 4. **Background information.** Each application must contain the following information:

- A. the applicant's complete name, address, and telephone number;
- B. the complete name, title, address, and telephone number of the authorized representative or agent to be contacted concerning the applicant's filing;
- C. the signatures and titles of persons authorized to sign the application, and the signature of the preparer of the application if prepared by an outside representative or agent; and
- D. a brief description of the proposed project which includes:
 - (1) general location;
 - (2) planned use and purpose;
 - (3) estimated cost;
 - (4) planned in-service date; and
 - (5) general design and operational specifications for the type of pipeline for which an application is submitted.

4415.0120 DESCRIPTION OF PROPOSED PIPELINE AND ASSOCIATED FACILITIES.

Subpart 1. **Pipeline design specifications.** The specifications for pipeline design and construction must comply with all applicable state and federal rules or regulations. For public information purposes, the anticipated pipeline design specifications must include but are not limited to:

- A. pipe size (outside diameter) in inches;
- B. pipe type;
- C. nominal wall thickness in inches;
- D. pipe design factor;
- E. longitudinal or seam joint factor;
- F. class location and requirements, where applicable;
- G. specified minimum yield strength in pounds per square inch; and
- H. tensile strength in pounds per square inch.

Subp. 2. **Operating pressure.** Operating pressure must include:

- A. operating pressure (psig); and
- B. maximum allowable operating pressure (psig).

Subp. 3. **Description of associated facilities.** For public information purposes, the applicant shall provide a general description of all pertinent associated facilities on the right-of-way.

Subp. 4. **Product capacity information.** The applicant shall provide information on planned minimum and maximum design capacity or throughput in the appropriate unit of measure for the types of products shipped as defined in part 4415.0010.

Subp. 5. **Product description.** The applicant shall provide a complete listing of products the pipeline is intended to ship and a list of products the pipeline is designed to transport, if different from those intended for shipping.

Subp. 6. **Material safety data sheet.** For each type of product that will be shipped through the pipeline, the applicant shall provide for public information purposes the material identification, ingredients, physical data, fire and explosive data, reactivity data, occupational exposure limits, health information, emergency and first aid procedures, transportation requirements, and other known regulatory controls.

4415.0125 LAND REQUIREMENTS.

For the proposed pipeline, the applicant shall provide the following information:

- A. permanent right-of-way length, average width, and estimated acreage;
- B. temporary right-of-way (workspace) length, estimated width, and estimated acreage;
- C. estimated range of minimum trench or ditch dimensions including bottom width, top width, depth, and cubic yards of dirt excavated;
- D. minimum depth of cover for state and federal requirements; and
- E. rights-of-way sharing or paralleling: type of facility in the right-of-way, and the estimated length, width, and acreage of the right-of-way.

4415.0130 PROJECT EXPANSION.

If the pipeline and associated facilities are designed for expansion in the future, the applicant shall provide a description of how the proposed pipeline and associated facilities may be expanded by looping, by additional compressor and pump stations, or by other available methods.

4415.0135 RIGHT-OF-WAY PREPARATION PROCEDURES AND CONSTRUCTION ACTIVITY SEQUENCE.

Each applicant shall provide a description of the general right-of-way preparation procedures and construction activity sequence anticipated for the proposed pipeline and associated facilities.

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

4415.0140 LOCATION OF PREFERRED ROUTE AND DESCRIPTION OF ENVIRONMENT.

Subpart 1. **Preferred route location.** The applicant must identify the preferred route for the proposed pipeline and associated facilities, on any of the following documents which must be submitted with the application:

- A. United States Geological Survey topographical maps to the scale of 1:24,000, if available;
- B. Minnesota Department of Transportation county highway maps; or

C. aerial photos or other appropriate maps of equal or greater detail in items A and B. The maps or photos may be reduced for inclusion in the application. One full-sized set shall be provided to the board.

Subp. 2. **Other route locations.** All other route alternatives considered by the applicant must be identified on a separate map or aerial photos or set of maps and photos or identified in correspondence or other documents evidencing consideration of the route by the applicant.

Subp. 3. **Description of environment.** The applicant must provide a description of the existing environment along the preferred route.

4415.0145 ENVIRONMENTAL IMPACT OF PREFERRED ROUTE.

The applicant must also submit to the board along with the application an analysis of the potential human and environmental impacts that may be expected from pipeline right-of-way preparation and construction practices and operation and maintenance procedures. These impacts include but are not limited to the impacts for which criteria are specified in part 4415.0040 or 4415.0100.

4415.0150 RIGHT-OF-WAY PROTECTION AND RESTORATION MEASURES.

Subpart 1. **Protection.** The applicant must describe what measures will be taken to protect the right-of-way or mitigate the adverse impacts of right-of-way preparation, pipeline construction, and operation and maintenance on the human and natural environment.

Subp. 2. **Restoration.** The applicant must describe what measures will be taken to restore the right-of-way and other areas adversely affected by construction of the pipeline.

4415.0160 OPERATION AND MAINTENANCE.

Pipeline operation and maintenance must comply with all applicable state and federal rules or regulations. For public information purposes, the applicant must provide a general description of the anticipated operation and maintenance practices planned for the proposed pipeline.

4415.0165 LIST OF GOVERNMENT AGENCIES AND PERMITS.

Each application must contain a list of all the known federal, state, and local agencies or authorities and titles of the permits they issue that are required for the proposed pipeline and associated facilities.

4415.0170 EVIDENCE OF CONSIDERATION OF ALTERNATIVE ROUTES.

If the applicant is applying for a pipeline routing permit under parts 4415.0045 to 4415.0100, the applicant shall provide a summary discussion of the environmental impact of pipeline construction along the alternative routes consistent with the requirements of parts 4415.0140 to 4415.0145 and the rationale for rejection of the routing alternatives.

PIPELINE ROUTING PERMIT

4415.0175 PERMIT ISSUANCE, DISTRIBUTION, AND EMINENT DOMAIN.

Subpart 1. **Permit issuance.** When the board issues a pipeline routing permit for the construction of a pipeline and associated facilities, the board shall designate a route for the pipeline type and maximum size specified in the application, conditions for right-of-way preparation, construction, cleanup, and restoration contained in part 4415.0195, and any other appropriate conditions relevant to minimizing environmental and human impact. The board's decision shall be made in accordance with part 4415.0040 or 4415.0100.

Subp. 2. **Permit distribution.** The permittee shall, within ten days of receipt of the pipeline routing permit from the board, send a copy of the permit to the office of each regional development commission of a development region, soil and water conservation district, watershed district, watershed management district, office of the auditor of each county, and to the clerk of each city and township, crossed by the designated route. The permittee shall provide a copy of the pipeline routing permit to affected landowners before construction on the affected landowners' property.

Subp. 3. **Eminent domain.** After an applicant is issued a pipeline routing permit as provided in Minnesota Statutes, section 116I.015, and parts 4415.0010 to 4415.0215, the permittee may exercise the right of eminent domain as provided by Minnesota Statutes, section 117.48. In addition, when a pipeline routing permit has been issued, the requirements of Minnesota Statutes, sections 116I.02 and 117.49, do not apply.

4415.0180 DELAY IN ROUTE CONSTRUCTION.

When the board issues a pipeline routing permit, the permittee may begin construction or improvement of the route in accordance with the conditions of the permit and this chapter. However, if construction and improvement have not begun within four years after the pipeline routing permit has been issued by the board, the board shall suspend the permit. If at that time, or at a later time after suspension, the permittee decides to construct the proposed pipeline, it shall certify to the board that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. If the board determines that there are no significant changes, it shall reinstate the permit. If the board determines that there is a significant change, it may order public information meetings or a new hearing and consider the matter further, or it may require the permittee to submit a new application.

4415.0185 PERMIT AMENDMENTS.

Following issuance of a pipeline routing permit, the permittee may apply to the board for amendments on route location and conditions specified in the permit. The permittee shall submit an application for amendment that contains sufficient information for the board to determine the following:

- A. whether, in light of the criteria in parts 4415.0040 and 4415.0100, the requested changes are significant enough to warrant board study and approval;
- B. whether to order public information meetings near the affected area; and
- C. whether additional fees shall be assessed.

The board shall make the determinations in items A to C within 45 days of receipt of the application.

If the board cannot make the determinations in items A to C in 45 days and decides to study the application further, the board shall make the determinations in items A to C within 70 days. The board shall grant or deny the permittee's application for permit amendment, as appropriate.

4415.0190 REVIEW OF PLAN AND PROFILE AND RIGHT-OF-WAY CONSTRUCTION SPECIFICATIONS.

Following issuance of a pipeline routing permit, a permittee shall provide the board with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, and restoration at least 14 days before right-of-way preparation of that segment of the pipeline. The board chair may shorten this time limit if it can be shown that earlier construction will not preclude proper review. If the permittee makes any significant change in its plan and profile and the specifications and drawings for right-of-way preparation, construction, and restoration, it shall notify the board in writing of the changes.

4415.0195 PERMIT CONDITIONS FOR RIGHT-OF-WAY PREPARATION, CONSTRUCTION, CLEANUP, AND RESTORATION.

The following conditions apply to pipeline right-of-way preparation, construction, cleanup, and restoration.

- A. The permittee shall comply with applicable state rules and regulations.
- B. The permittee shall clear the right-of-way only to the extent necessary to assure suitable access for construction, safe operation, and maintenance of the pipeline.
- C. Stream banks disturbed by pipeline construction must be stabilized with vegetation by the permittee using native plant species indigenous to the area or by other equivalent methods.
- D. Precautions shall be taken by the permittee to protect and segregate topsoil in cultivated lands unless otherwise negotiated with the affected landowner.
- E. Compaction of cultivated lands by the permittee must be kept to a minimum and confined to as small an area as practicable.
- F. Precautions to protect livestock and crops must be taken by the permittee unless otherwise negotiated with the affected landowner.
- G. All appropriate precautions to protect against pollution of the environment must be taken by the permittee.
- H. All waste and scrap that is the product of the pipeline construction process must be removed or properly disposed of before construction ends.

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

I. Cleanup of personal litter, bottles, and paper deposited by right-of-way preparation and construction crews must be done on a daily basis.

J. The permittee shall repair or replace all drainage tiles broken or damaged during right-of-way preparation, construction, and maintenance activities, unless otherwise negotiated with the affected landowner.

K. The permittee shall repair private roads and lanes damaged when moving equipment or when obtaining access to the right-of-way, unless otherwise negotiated with the affected landowner.

L. The permittee shall replace or repair all fences and gates removed or damaged as a result of right-of-way preparation, construction, and restoration activities, unless otherwise negotiated with the affected landowner.

M. The permittee shall compensate the owner of all crops and property damaged or lost as a result of pipeline construction, unless otherwise negotiated with the affected landowner.

N. Shelterbelts and trees must be protected by the permittee whenever possible.

O. The permittee shall, to the extent possible, restore the area affected by the pipeline to the natural conditions that existed immediately before construction of the pipeline. Restoration must be compatible with the safe operation, maintenance, and inspection of the pipeline.

4415.0200 REPORT OF COMPLAINTS.

The permittee must report to the board any substantial complaint received about right-of-way preparation, construction, cleanup, and restoration that is not resolved within ten days of the complaint.

4415.0205 PERMIT MODIFICATION OR SUSPENSION.

Subpart 1. **Initiation of action.** The chair shall, upon a prima facie showing by affidavit or other documentation that a violation of the terms and conditions of a pipeline routing permit or parts 4415.0010 to 4415.0215 may have occurred or is likely to occur, notify the permittee in writing of the allegations. The chair shall then place the matter on the agenda of the next regular or special meeting of the board, in accordance with part 4405.0600, for consideration of an action to modify or suspend the pipeline routing permit. The permittee must be given at least ten but no more than 30 days from receipt of the notice to prepare a response to the alleged violation for presentation at the board meeting. However, the chair may determine that circumstances exist requiring immediate board action or the permittee may request or agree that the board meeting be held less than ten days after notification.

Subp. 2. **Board action.** If the board determines that substantial evidence supports a finding that a violation of the terms or conditions of a pipeline routing permit has occurred or is likely to occur, it may take action to modify or suspend the permit. The board may, at any time, consider suspension of that action to modify or suspend the permit if the permittee has undertaken effective corrective or ameliorative measures to correct the violations.

Subp. 3. **Scope of suspension.** If the board decides to suspend a pipeline routing permit, the suspension must be limited to the following:

A. the route segment that includes the right-of-way preparation, pipeline construction, or restoration activities giving rise to the violation of the permit;

B. requiring corrective or ameliorative measures necessary for the pipeline to comply with the pipeline routing permit; and

C. the time period necessary for the permittee to complete the required corrective or ameliorative measures.

Subp. 4. **Scope of modification.** If the board decides to modify the pipeline routing permit, the permit modifications must be in accordance with part 4415.0195 and be limited to:

A. the imposition of permit conditions that provide reasonable necessary additional mitigation or minimization of significant impacts on humans or the environment; or

B. the amendment of permit conditions regarding right-of-way preparations and pipeline construction activities.

OTHER REQUIREMENTS

4415.0210 APPLICATION FEES.

Subpart 1. **Requirement.** Every applicant under Minnesota Statutes, section 116I.015, shall pay to the board an application fee.

Subp. 2. **Purpose of application fee.** The purpose of an application fee is to cover actual costs necessarily and reasonably incurred in processing an application for a conditional exclusion, partial exemption, pipeline route selection, or emergency, permit compliance activities, administrative overhead, and legal expenses. Actual costs associated with an emergency shall be determined and paid after the board has taken action and the emergency has passed.

Subp. 3. **Method of fee approval and payment.** For applications filed under Minnesota Statutes, section 116I.015, the estimated

board project budget must be discussed with the applicant and be approved by the board when an application is accepted. The applicant must remit 25 percent of the approved board project budget within 14 days of acceptance of the application. The unpaid balance shall be billed in periodic installments, due upon receipt of an invoice from the board. Expenses in excess of the approved budget must be certified by the board and upon certification constitute prima facie evidence that the expenses are reasonable and necessary and shall be charged to the applicant. The applicant may review all actual costs associated with processing an application and present objections to the board. The application fees paid by the applicant under this part shall not exceed the sum of the costs incurred to process the application, construction permit compliance activities, administrative overhead, and legal expenses. All application fees received by the board must be paid to a special revenue fund.

4415.0215 GENERAL RESPONSIBILITIES.

The board shall monitor the effectiveness of this chapter and shall take appropriate measures to modify and improve their effectiveness. The board shall assist governmental units and interested persons in understanding the rules.

Department of Health

Proposed Permanent Rules Relating to Fees for Food, Beverage, and Lodging Establishments

Proposed Permanent Rules Relating to Fees for Manufactured Home Parks and Recreational Camping Areas

Notices of Intent to Adopt Rules Amendments Without Public Hearings, Notices of Intent to Adopt Rules Amendments With a Public Hearing on the Proposed Amendments to a Rule If 25 or More Persons Request a Hearing With Respect to Proposed Amendments to That Rule, and Notices of Intent to Cancel Hearing on the Proposed Amendments to a Rule If Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Amendments to That Rule

I. EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby gives notice of its intent to adopt rules amendments without public hearings under the noncontroversial rulemaking procedure of *Minnesota Statutes* §§ 14.22 to 14.28 (1986). However, in case 25 or more persons request a hearing with respect to the proposed amendments to a rule thus necessitating that one be held pursuant to *Minnesota Statutes* § 14.25 (1986), and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of hearing on the proposed rule amendments pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986). The hearing on the proposed amendments to a rule will, of course, be cancelled if 25 or more people do not request that one be held with respect to the proposed amendments to that rule. With the comment period closing on November 2, 1988, there will be four days before the scheduled hearing date. This four-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II. NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITHOUT PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules amendments without public hearings unless 25 or more persons submit written requests for a public hearing with respect to the proposed amendments to a rule. The Department has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* §§ 14.22 to 14.28 (1986).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules amendments. The 30 days will expire on November 2, 1988. Comment is encouraged. Each comment should identify the portions of the proposed rules amendments being addressed, the reason for the comment, and any change proposed to the rules amendments by the comment. The proposed rules amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

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

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules amendments. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portions of the proposed rules amendments addressed, the reason for the request, and any changes they want made to the proposed rules amendments. If a person desires that a hearing be held on only a portion of the proposed rules amendments, it is requested that the Department be informed of the specific portion of the amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed amendments to a rule or a portion thereof by November 2, 1988, thus necessitating that one be held with respect to the proposed amendments to that rule. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Charles B. Schneider, R.S., Chief
 Environmental Field Services
 Minnesota Department of Health
 717 Delaware Street S.E.
 Minneapolis, Minnesota 55440
 Telephone: (612) 623-5337

The statutory authority of the Department to adopt the proposed rules amendments is as follows:

<u>Proposed Rule Amendments</u>	<u>Statutory Authority</u>
<i>Minnesota Rules</i> pt. 4625.5000 (1987) (food and beverage establishments)	<i>Minnesota Statutes</i> §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)
<i>Minnesota Rules</i> pt. 4630.2000 (1987) (mobile home park or recreational camping area)	<i>Minnesota Statutes</i> §§ 144.05 (b) and (c), 144.12 and 327.16, subd. 3 (1986) and 144.122(a) (Supp. 1987)
<i>Minnesota Rules</i> pt. 4625.2300 (lodging establishments)	<i>Minnesota Statutes</i> §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)

The proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987) would increase initial and renewal license application fees and penalty fees for late applications by lodging establishments as follows:

	<u>Current Fee</u>	<u>Increased Fee</u>
Initial and renewal fees	\$50 plus \$2 per room up to a maximum total fee of \$250	\$67 plus \$2.70 per room up to a maximum total fee of \$337.50
Penalty fee for late application	\$10	\$20

The Proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987) would increase initial and renewal licensee application fees and penalty fees for late applications by food and beverage establishments as follows:

	<u>Current Fee</u>	<u>Increased Fee</u>
Establishments with:		
One to four employees	\$ 52.50	\$ 70.35
Five to eighteen	90	120.60
Nineteen to twenty-eight	135	180.90
Twenty-nine to thirty-five	187.50	251.25
Thirty-six and over	225	301.50
Limited establishments	37.50	50.25
Penalty fee for late application	10	20

The proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987) would increase initial and renewal license application fees and increase fees for late applications by mobile home park or recreational camping area operators as follows:

Proposed Rules

	<u>Current Fee</u>	<u>Increased Fee</u>
Initial fees:		
for each 50 sites or fraction thereof	\$75	\$200
for each 50 additional sites or fraction thereof	\$75	\$200
Renewal fees for year-round establishments:		
for each 10 sites or fraction thereof with a maximum fee of (except for increased fee for late filing)	\$15 \$300	\$40 \$800
Renewal fee for seasonal establishments	\$11.25	\$30
with a maximum fee of (except for increased fee for late filing)	\$225	\$600
Increased fees for late filing		
year-round establishments	\$10	\$20
seasonal establishments	\$10	\$20

The fees proposed in the proposed amendments were approved by the Commissioner of Finance as required by *Minnesota Statutes* § 616A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the Notice of Intent to Adopt Rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules amendments will be published in the *State Register* issue of October 3, 1988, and a free copy of the rules amendments may be obtained from the Department by writing or telephoning Charles B. Schneider at the address or telephone number listed above.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules amendments and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Department by writing or telephoning Charles B. Schneider at the address or telephone number listed above.

Promulgation of the proposed rules amendments will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1986).

The Department is subject to *Minnesota Statutes* § 14.115 (1986) regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules amendments are addressed in the statement of need and reasonableness.

Upon completion of proposed amendments to a rule without a public hearing, the rule amendments as proposed, this notice, the statement of need and reasonableness, all written comments received, the rule amendments as adopted, and a statement explaining any differences between the rule amendments as proposed and 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 amendments as adopted should submit a written request to Charles B. Schneider at the address listed above.

III. NOTICES OF INTENT TO ADOPT RULES AMENDMENTS WITH PUBLIC HEARINGS ON THE PROPOSED AMENDMENTS TO A RULE IF 25 OR MORE PERSONS REQUEST A HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO THAT RULE

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO ONE OF THE ABOVE-CAPTIONED RULES WITHIN THE 30-DAY COMMENT

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

PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON NOVEMBER 7, 1988, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986), in Room 250, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, on November 7, 1988, commencing as follows:

- 1:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987)
(increases in fees for initial and renewal license applications for food and beverage establishments)
- 2:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987)
(increases in fees for primary (initial) licenses or renewals thereof to operate a mobile home park or recreational camping area)
- 3:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987)
(increases in fees for licenses for lodging establishments and penalty fees for late applications)

The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7608. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three day period. This rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1986). Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987) would increase initial and renewal license application fees and penalty fees for late applications by lodging establishments as follows:

	<u>Current Fee</u>	<u>Increased Fee</u>
Initial and renewal fees	\$50 plus \$2 per room up to a maximum total fee of \$250	\$67 plus \$2.70 per room up to a maximum total fee of \$337.50
Penalty fee for late application	\$10	\$20

The Proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987) would increase initial and renewal licensee application fees and penalty fees for late applications by food and beverage establishments as follows:

	<u>Current Fee</u>	<u>Increased Fee</u>
Establishments with:		
One to four employees	\$ 52.50	\$ 70.35
Five to eighteen	90	120.60
Nineteen to twenty-eight	135	180.90
Twenty-nine to thirty-five	187.50	251.25
Thirty-six and over	225	301.50
Limited establishments	37.50	50.25
Penalty fee for late application	10	20

The proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987) would increase initial and renewal license application fees and increase fees for late applications by mobile home park or recreational camping area operators as follows:

Proposed Rules

	<u>Current Fee</u>	<u>Increased Fee</u>
Initial fees:		
for each 50 sites or fraction thereof	\$75	\$200
for each 50 additional sites or fraction thereof	\$75	\$200
Renewal fees for year-round establishments:		
for each 10 sites or fraction thereof with a maximum fee of (except for increased fee for late filing)	\$15 \$300	\$40 \$800
Renewal fee for seasonal establishments	\$11.25	\$30
with a maximum fee of (except for increased fee for late filing)	\$225	\$600
Increased fees for late filing		
year-round establishments	\$10	\$20
seasonal establishments	\$10	\$20

The proposed rules amendments will be published in the *State Register* issue of October 3, 1988, and a free copy of the rules amendments may be obtained from the Department by writing or telephoning Charles B. Schneider at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Department to adopt the proposed rules amendments is as follows:

<u>Proposed Rule Amendments</u>	<u>Statutory Authority</u>
<i>Minnesota Rules</i> pt. 4625.5000 (1987) (food and beverage establishments)	<i>Minnesota Statutes</i> §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)
<i>Minnesota Rules</i> pt. 4630.2000 (1987) (mobile home park or recreational camping area)	<i>Minnesota Statutes</i> §§ 144.05 (b) and (c), 144.12 and 327.16, subd. 3 (1986) and 144.122(a) (Supp. 1987)
<i>Minnesota Rules</i> pt. 4625.2300 (lodging establishments)	<i>Minnesota Statutes</i> §§ 144.05(b) and (c), 144.12 and 157.03 (1986) and 144.122(a) (Supp. 1987)

The fees proposed in the proposed amendments were approved by the Commissioner of Finance as required by *Minnesota Statutes* § 616A.128 (1986) and said approval is attached to the Statement of Need and Reasonableness. Copies of the Notice of Intent to Adopt Rules and the proposed rules were also sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

The proposed rules amendments may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules amendments are therefore advised to participate in the process.

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

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any 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

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

Proposed Rules

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the rules amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which any rules amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules amendments are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules amendments with the Secretary of State.

Promulgation of the proposed rules amendments will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1986).

The Department is subject to *Minnesota Statutes* § 14.115 (1986) regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules amendments are addressed in the statement of need and reasonableness.

IV. NOTICES OF INTENT TO CANCEL HEARINGS WITH RESPECT TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED WITH RESPECT TO THE PROPOSED AMENDMENTS TO A RULE IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED AMENDMENTS TO THAT RULE IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether a hearing noticed in Part III above will be held, please call or write Charles B. Schneider at the address or telephone number listed above before November 2, 1988, and leave your name, address, and telephone number. You will be notified after November 2, 1988, if the hearing has been cancelled. You may also call Mr. Schneider at (612) 673-5337 after November 2, 1988, for oral confirmation regarding the scheduled hearing.

Dated: 19 September 1988

Sister Mary Madonna Ashton
Commissioner of Health

Order for Hearings

IT IS HEREBY ORDERED this 19th day of September, 1988, that public hearings on the proposed rules amendments in the above-entitled matter be held in Room 250, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, on the 7th day of November, 1988, commencing as follows:

- 1:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.5000 (1987)
(increases in fees for initial and renewal license applications for food and beverage establishments)
- 2:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4630.2000 (1987)
(increases in fees for primary (initial) licenses or renewals thereof to operate a mobile home park or recreational camping area)
- 3:00 p.m. on the proposed amendments to *Minnesota Rules* pt. 4625.2300 (1987)
(increases in fees for licenses for lodging establishments and penalty fees for late applications)

and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearings be given to all persons who have registered their names with the Department of Health for that purpose and be published in the *State Register*.

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed**4625.2300 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.**

Subpart 1. **Fee schedule.** License applications for lodging establishments as defined in part 4625.0100 shall be accompanied by a fee of ~~\$50~~ \$67 plus ~~\$2~~ \$2.70 per room, up to a maximum total fee of ~~\$250~~ \$337.50.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of ~~\$10~~ \$20 shall be added to the amount of the license fee if the application has not reached the office of the commissioner of health before January 31, or in the case of a new business, 30 days after the opening of ~~such the~~ the business.

Subp. 5. [Unchanged.]

4625.5000 INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES.

Subpart 1. **Fee schedule.** Initial and renewal license applications for food and beverage establishments as defined in part 4625.2400 shall be accompanied by the applicable fee as determined from the schedule below. The average number of employees shall be computed in accordance with Minnesota Statutes, section 157.03.

A. one to four employees, ~~\$52.50~~ \$70.35;

B. five to 18, ~~\$90~~ \$120.60;

C. 19 to 28, ~~\$135~~ \$180.90;

D. 29 to 35, ~~\$187.50~~ \$251.25;

E. 36 and over, ~~\$225~~ \$301.50; and

F. ~~limited or temporary food service or beverage establishments that sell only prepackaged foods that receive heat treatment and are served in the package, mobile units, or itinerant and special event stands serving food or beverages for 14 days or less in any single location,~~ ~~\$37.50~~ \$50.25.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Penalty fee.** A penalty fee of ~~\$10~~ \$20 shall be added to the amount of the license fee if the license renewal application has not reached the commissioner of health before January 31 of the year for which the license is to be issued, or in the case of a new business, 30 days after the opening of ~~such the~~ the business.

Subp. 5. [Unchanged.]

Rules as Proposed**4630.2000 FEE SCHEDULE FOR LICENSES.**

The application for a primary license, or a renewal thereof, to operate a mobile home park or recreational camping area, as defined in Minnesota Statutes, section 327.14, shall be accompanied by the following fees:

A. Primary (initial) license fee: ~~\$75~~ \$200 for each 50 sites or fraction thereof. The fee for additional sites proposed after a primary license has been issued shall be ~~\$75~~ \$200 for each 50 sites or fraction thereof.

B. Renewal fee for year-round establishments: ~~\$15~~ \$40 for each ten sites or fraction thereof with a maximum fee of ~~\$300~~ \$800 except as provided for in item D.

C. Renewal fee for seasonal establishments: the renewal fee for any mobile home park or recreational camping area which operates for a continuous period of six months (183 days) or less during a calendar year shall pay 75 percent of the fee as computed pursuant to item B with a maximum fee of ~~\$225~~ \$600 except as provided for in item D.

D. Increased fee: for year-round operations, the fee will be increased by ~~\$10~~ \$20 if the renewal application and fee are not submitted by January 15 of the year for which application for license is made. For seasonal operations the fee will be increased ~~\$10~~ \$20 if the renewal application and fee are not submitted within 15 calendar days after the establishment opens.

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

Department of Human Services

Proposed Permanent Rules Relating to Licenses; Residential-based Habilitation Services

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in room 500 North, State Office Building, 100 Constitution Avenue, Saint Paul, Minnesota 55155, on November 15, 1988, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9525.2000 to 9525.2140 establish standards for the licensure of residential-based habilitation services provided to four or fewer persons with mental retardation or related conditions under Minnesota's Title XIX Waiver. Residential-based habilitation services provide supervision, assistance and training to recipients of services provided under the waiver in their own home, or in a foster home. While foster homes are already licensed under *Minnesota Rules*, parts 9555.5105 to 9555.6105 for adults and parts 9545.0010 to 9545.0260 for children, these rule parts do not include standards governing the adequacy of residential habilitation services provided to waiver recipients in those settings. Therefore, the Department determined it was necessary to establish minimum standards governing the provision of residential habilitation services to assure that waiver recipients living at home or in a foster home received the adequate habilitative services under the home and community-based program.

Parts 9525.2000 to 9525.2010 state the purpose and scope of the rules and define terms used in the rules.

Part 9525.2020 describes the basic requirements of licensure under these rules.

Part 9525.2030 establishes standard requirements of all service provision based on accepted standards in the field of developmental disabilities.

Parts 9525.2040 and 9525.2050 explain the standards required to be met by a service provider before services may be initiated.

Part 9525.2060 explains the rights of persons receiving services. Many of these rights are established in statute.

Part 9525.2070 explains how a service provider must deal with any financial resources of persons for which the provider is responsible.

Part 9525.2080 to 9525.2110 explain in detail for the provider the minimum expectations of service provision. These parts detail, among other things, how the provider should implement the individual habilitation plan for each person receiving services, the types of recommendations and information that must be provided to the county, and what records and information the provider must retain.

Part 9525.2120 explains what procedures a provider must follow before terminating service provision to any person.

Parts 9525.2120 and 9525.2130 establish minimum qualifications for staff members and training and orientation requirements.

As part of the *Welsch v. Gardebring* negotiated settlement (No. 4-72 Civil 45), the Department agreed to publish for hearing by October 3, 1988 proposed rules to license individuals or agencies that provide supervised living services or other similar services to persons with mental retardation under the state's Title XIX Home and Community-Based Waiver Program (Part VII. C.1.b.). By proposing *Minnesota Rules*, parts 9525.2000 to 9525.2130, the Department is fulfilling its obligations under the *Welsch* negotiated settlement.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, Sections 252.28, subdivision 2, 252A.03, subdivision 1, and 256B.092.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Ms. Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, Saint Paul, Minnesota, 55155-3816.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ms. Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, Saint Paul, Minnesota, 55155-3816. A copy of the rule may also be viewed at any of the 87 county welfare agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Ms. Chris Kiefer, Rulemaker, Department of Human Services, Rules Division, 444 Lafayette Road, Saint Paul, Minnesota, 55155-3816, telephone (612) 297-1461.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sandra S. Gardebring
Commissioner

Rules as Proposed (all new material)

9525.2000 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 9525.2000 to 9525.2140 is to establish minimum standards that an applicant or license holder must meet to be licensed to provide residential-based habilitation services for persons with mental retardation or related conditions.

Subp. 2. **Applicability.** Parts 9525.2000 to 9525.2140 apply to any applicant or license holder, including a licensed provider of foster care, that provides residential-based habilitation services, including supported living services to children or adults, and in-home family support services to four or fewer persons under contract with a county under parts 9525.1800 to 9525.1930. Parts 9525.2000 to 9525.2140 apply only to residential-based habilitation services that are provided and funded in accordance with the waiver of requirements under United States Code, title 42, section 1396 et. seq.

Subp. 3. **Exclusions.** Parts 9525.2000 to 9525.2140 do not govern the provision of respite care and do not apply to residential programs serving more than four persons that are licensed under parts 9525.0210 to 9525.0430.

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

9525.2010 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9525.2000 to 9525.2140 have the meanings given them in this part.

Subp. 2. **Adult.** "Adult" means a person 18 years of age or older.

Subp. 3. **Applicant.** "Applicant" means an individual, corporation, partnership, voluntary association, or other organization that has applied for licensure under Minnesota Statutes, sections 245A.01 to 245A.16 and parts 9525.2000 to 9525.2140.

Subp. 4. **Caregiver.** "Caregiver" means the individual who cares for and supervises a person receiving services at the person's residence.

Subp. 5. **Case manager.** "Case manager" means the individual designated by the county board to provide case management services as defined in parts 9525.0015 to 9525.0165.

Subp. 6. **Child.** "Child" means a person under 18 years of age.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 8. **County board.** "County board" means the county board of commissioners for the county of financial responsibility as specified in Minnesota Statutes, section 256B.02, subdivision 3.

Subp. 9. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 10. **County of service.** "County of service" means the county arranging for or providing community social services to persons at the request of the person, the person's legal representative, or the county of financial responsibility.

Subp. 11. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 12. **Direct service.** "Direct service" means training or supervision and assistance of a person receiving residential-based habilitation services and participation in the development or implementation of a person's individual habilitation plan.

Subp. 13. **Family.** "Family" means a person's biological or adoptive parents, stepparents, siblings, children, grandchildren, or spouse.

Subp. 14. **Goal.** "Goal" means the desired behavioral outcome of an activity that can be observed and reliably measured by two or more independent observers.

Subp. 15. **Home and community-based services.** "Home and community-based services" means the following services that are provided to persons with mental retardation and related conditions if the services are authorized under United States Code, title 42, section 1396 et. seq., and authorized under the waiver granted by the United States Department of Health and Human Services: case management, respite care, homemaker, in-home family support services, supported living services for children, supported living services for adults, day training and habilitation, and adaptive aids as defined in part 9525.1860; and other home and community-based services authorized under United States Code, title 42, section 1396 et. seq., if approved for Minnesota by the United States Department of Health and Human Services.

Subp. 16. **Host county.** "Host county" means a county contracting for the provision of social services with an approved vendor within its county boundaries at the request of another county.

Subp. 17. **Incident.** "Incident" means an injury, accident, seizure, inpatient or outpatient medical assistance, error in drug administration, or a circumstance reported to or responded to by law enforcement.

Subp. 18. **Individual habilitation plan (IHP).** "Individual habilitation plan (IHP)" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 19. **Individual service plan.** "Individual service plan" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 20. **In-home family support services.** "In-home family support services" means residential-based habilitation services provided to persons with mental retardation or related conditions, and their adoptive or biological family, in the family's residence and in the community. Services are designed to enable the person to remain with, or return to, the family.

Subp. 21. **Interdisciplinary team.** "Interdisciplinary team" has the meaning given it in part 9525.0015, subpart 15.

Subp. 22. **Legal representative.** "Legal representative" means the parent or parents of a person with mental retardation or a related condition when that person is under 18 years of age, or a court appointed guardian or conservator who is authorized by the court to make decisions about services for a person with mental retardation or a related condition regardless of the person's age.

Subp. 23. **License holder.** "License holder" means an individual, corporation, partnership, voluntary association, or other organi-

zation that is legally responsible for, and has been granted a license by the commissioner under Minnesota Statutes, sections 245A.01 to 245A.16 to provide, residential-based habilitation services under parts 9525.2000 to 9525.2140.

Subp. 24. **Objective.** "Objective" means a short-term expectation, accompanied by measurable behavioral criteria, that is written in the individual habilitation plan. Objectives are designed to result in achievement of the annual goals in a person's individual service plan.

Subp. 25. **Outcome.** "Outcome" means the measure of change or the degree of attainment of specified goals and objectives that is achieved as a result of provision of residential-based habilitation service.

Subp. 26. **Person with mental retardation or a related condition or person.** "Person with mental retardation or a related condition" or "person" means:

A. a child or adult who has been diagnosed under part 9525.0045 as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and who manifests these conditions before the person's 22nd birthday; or

B. a child or adult who has a related condition as defined in parts 9525.0180 to 9525.0190.

Subp. 27. **Qualified mental retardation professional (QMRP).** "Qualified mental retardation professional (QMRP)" means an individual who meets the qualifications specified in Code of Federal Regulations, title 42, section 442.401, as amended, and has been approved by the case manager as meeting those qualifications.

Subp. 28. **Residential-based habilitation services.** "Residential-based habilitation services" means services provided in a person's residence and in the community, that are directed toward increasing and maintaining the person's physical, intellectual, emotional, and social functioning. Residential-based habilitation services include therapeutic activities, assistance, counseling, training, supervision, and monitoring in the areas of self-care, sensory and motor development, interpersonal skills, communication, socialization, working, reduction or elimination of maladaptive behavior, community participation and mobility, health care, leisure and recreation, money management, and household chores. Supported living services and in-home family support services are the two categories of residential-based habilitation services governed by parts 9525.2000 to 9525.2140.

Subp. 29. **Respite care.** "Respite care" means short-term supervision, assistance, and care provided to a person receiving waived services due to the temporary absence of or need for relief of the person's family, foster family, or primary caregiver. For the purposes of these rule parts, respite care is not a residential-based habilitation service.

Subp. 30. **Service.** "Service" means planned activities designed to achieve the outcomes assigned to the license holder by the interdisciplinary team and specified in the individual service plans of persons served by the license holder.

Subp. 31. **Supported living services for adults.** "Supported living services for adults" means residential-based habilitation services provided on a daily basis to an adult waived services recipient who resides in a service site licensed under parts 9555.5105 to 9555.6105 and 9555.6265 or in a service site that is defined as a person's own home in parts 9525.1800 to 9525.1930.

Subp. 32. **Supported living services for children.** "Supported living services for children" means residential-based habilitation services provided on a daily basis to a waived services recipient under 18 years of age who resides in a service site licensed under parts 9545.0010 to 9545.0260 for up to three residents.

Subp. 33. **Variance.** "Variance" means written permission given by the commissioner that allows the applicant or license holder to depart from specified provisions in parts 9525.2000 to 9525.2140.

9525.2020 LICENSURE.

Subpart 1. **License required.** An individual, corporation, partnership, voluntary association, or other organization must be licensed by the commissioner to provide home and community-based residential habilitation services.

Subp. 2. **Study of the applicant.** Before a license is issued, a background study must be completed of the applicant and all employees, subcontractors, and unsupervised volunteers as mandated by Minnesota Statutes, section 245A.04, subdivision 3.

Subp. 3. **Disqualification standards.** Minnesota Statutes, section 245A.04, subdivision 6, requires the commissioner to apply disqualification standards in this part to evaluate results of the study made under subpart 2. In order to become licensed or to remain licensed under parts 9525.2000 to 9525.2140, an applicant or license holder must not be an individual, employ or subcontract with an individual, or use as a volunteer an individual who has any of the characteristics in items A to D.

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

A. The individual has a conviction of, has admitted to, has been charged with, is awaiting trial for, or there is substantial evidence indicating that the individual has committed:

(1) an act of physical abuse or sexual abuse as defined in Minnesota Statutes, section 626.556, even if the act occurred before the effective date of that statute;

(2) an act of abuse as defined in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d), clauses (1) to (3), even if the act occurred before the effective date of that statute;

(3) murder or manslaughter as defined in Minnesota Statutes, sections 609.185 to 609.205, and 609.2661 to 609.2665;

(4) the solicitation of children to engage in sexual conduct as defined in Minnesota Statutes, section 609.352; or

(5) an act or crime similar to or the same as the acts or crimes listed in this item that is listed in the laws of another state, the United States, or another country.

B. The individual has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged with, is awaiting trial for, or a preponderance of the evidence indicates that the individual has committed:

(1) neglect as defined in Minnesota Statutes, section 626.556 or 626.557;

(2) a felony under Minnesota Statutes, chapter 152;

(3) any crime listed in Minnesota Statutes, sections 609.17; 609.175; 609.21 to 609.224; 609.23 to 609.294; 609.321 to 609.324; 609.33 to 609.345; 609.365; 609.377; 609.378; 609.52; 609.521; 609.525; 609.53; 609.54; 609.561 to 609.563; 609.582, subdivision 1; 609.625 to 609.635; 609.66 to 609.67; 609.687; 609.71; 609.713; 609.746; 609.79; 609.795; 609.821; 609.89; or 617.23; or

(4) an act or crime similar to or the same as the acts and crimes listed in this item that is listed in the laws of another state, the United States, or another country.

C. The individual has mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20, and the mental illness has a negative effect on the ability of the individual to provide service to persons receiving services.

D. The individual abuses prescription drugs or uses alcohol or controlled substances as named in Minnesota Statutes, chapter 152, to the extent that the use or abuse impairs the individual's ability to provide services.

Subp. 4. **Reevaluation of disqualification.** An applicant or a license holder who is disqualified from licensure, or an employee, volunteer, or subcontractor of an applicant or license holder, who is not permitted to work based on the disqualification standards in this subpart may request that the commissioner reevaluate the disqualification decision and set aside the disqualification. The request for reevaluation must be made in writing and sent to the commissioner by certified mail.

A. A request for reevaluation of a disqualification based on subpart 3, item A, C, or D must be accompanied by information establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 3, item A, C, or D, occurred based on the factors in item B.

B. A request for reevaluation of a disqualification based on subpart 3, item B, must be accompanied by:

(1) copies of information held by an individual, organization, or agency specified in Minnesota Statutes, section 245A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the event;

(2) a statement of the period of time elapsed since the event;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the event; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

C. In determining whether or not to set aside the disqualification, the commissioner shall consider the consequences of the event that led to the finding; the vulnerability of the victim of the event; the time elapsed without a repeat of the same or similar event; and documentation of successful completion of training or rehabilitation pertinent to the incident.

D. The commissioner's disposition of a reevaluation under this part is the final department action.

Subp. 5. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term, a physical, mental health, chemical dependency, or criminal history evaluation of any individual performing direct service staff duties if the commissioner has reasonable cause to believe any of the qualifications or requirements have not been met or that the individual cannot care for persons being served. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation. Evaluation refusal shall result in employment disqualification.

Subp. 6. **Variations.** An applicant or license holder may request a variance to parts 9525.2000 to 9525.2140. A request for a variance must be in writing and sent to the commissioner. A copy must be provided to the board of county commissioners of the county of service and, if applicable, the host county. The written request must specify:

- A. the provision from which a variance is requested;
- B. the reasons why the applicant or license holder cannot comply with the specified provision;
- C. the period of time, not to exceed the greater of one year or the license term, for which the variance has been requested;

and

D. the equivalent measures the applicant or license holder will take to ensure the health, safety, and rights of persons and to comply with the intent of parts 9525.2000 to 9525.2140, if the variance is granted.

Subp. 7. **Evaluation of a variance request.** A variance may be granted only if the commissioner determines that the conditions in items A to E exist:

- A. the applicant or license holder has made a written request for variance that meets the requirements in subpart 6;
- B. granting the variance does not threaten the health, safety, or rights of persons receiving services;
- C. granting the variance does not violate Minnesota Statutes;
- D. the county of service and the host county concur with the applicant's or license holder's request; and
- E. the applicant or license holder is in compliance with all other provisions of parts 9525.2000 to 9525.2140.

Subp. 8. **Notice by commissioner.** Within 30 days after receiving a request for a variance and the documentation supporting it, the commissioner shall inform the applicant or license holder in writing whether the request has been granted or denied and the reasons for this decision. The commissioner's decision to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

Subp. 9. **Notice by license holder.** Within ten working days after the date that the license holder receives the commissioner's decision to grant a variance request or to issue a probationary license, suspension, or revocation, the license holder shall send a copy of the commissioner's decision to the legal representatives and county case managers of all persons receiving services.

9525.2030 SERVICE OUTCOMES.

Subpart 1. **Individual service needs.** The license holder must provide or obtain residential-based habilitation services for each person in accordance with the person's individual needs as specified in the individual service plan and the IHP.

Subp. 2. **Methods, materials, and settings.** Methods, materials, and settings used to provide residential habilitation services and to implement the IHP must be designed to:

- A. increase each person's independence in performing tasks and activities by teaching skills that reduce dependence on caregivers;
- B. provide training in the environment where the skill being taught is typically used;
- C. increase each person's opportunities to interact with nondisabled individuals who are not paid caregivers;
- D. increase each person's opportunities to use and participate in a variety of community resources and activities, including, but not limited to, public transportation when available; recreational, cultural, and educational resources; stores; restaurants; and religious services when desired;
- E. increase each person's opportunities to develop decision-making skills and to make informed choices in all aspects of daily living, including, but not limited to, selection of service providers, goals, and methods; location and decor of residence; roommates; daily routines; leisure activities; and personal possessions; and
- F. provide daily schedules, routines, environments, and interactions similar to those of nondisabled individuals of the same chronological age.

Subp. 3. **Least restrictive environment.** Each person's participation, movement, communication, and personal choice may be restricted only as necessary to protect the person and others and as specified in the person's IHP. Supervision and assistance may be provided only when necessary for the person to complete a task or participate in an activity, or to protect the person or others.

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

Subp. 4. **Respectful treatment of persons.** The license holder must ensure that staff interaction with persons is respectful and considerate of privacy, preferences, and chronological age, and that staff does not use language that stigmatizes a person based on the person's disability.

Subp. 5. **Level of participation.** The license holder must document measures, as required by each person's individual service plan, to increase the level of participation by the person in environments, activities, routines, and skills in which the person is unable to function independently. Such measures shall include staff assistance or supervision, training methodologies, and adaptations to equipment or environments.

Subp. 6. **Family relationships.** If desired by a person, services shall be designed to encourage the development of family relationships and regular interaction by the person with family and extended family members. When a person is residing in a family home, services shall be designed to meet the person's needs while accommodating the family's existing routines and values.

9525.2040 SERVICE AUTHORIZATION.

Before a license holder provides a residential-based habilitative service identified in a person's individual service plan, the conditions in items A and B must be met:

A. the license holder has a copy of the signed service contract between the license holder and the county; and

B. the license holder has been authorized by the county of financial responsibility pursuant to parts 9525.0085, subpart 2; 9525.1830, subpart 1, item E; and 9525.1850, item H, to provide the type, amount, and frequency of services specified in the person's individual service plan.

9525.2050 SERVICE INITIATION.

Subpart 1. **Written policy required.** The license holder must have a written policy that sets forth procedures for initiating services to persons. This policy must be consistent with the county's determination or redetermination of need for the license holder's service under parts 9525.0015 to 9525.0165, if applicable; the county contract required by parts 9525.1870; and 9525.2000 to 9525.2140.

Subp. 2. **Information on persons receiving services.** When a license holder begins providing services to a person, the license holder must have written information about the person that contains:

A. a copy of the person's current individual service plan;

B. a copy of a physical examination report on the person that is dated no more than 365 days before the date on which service was initiated and that includes information about seizures, allergies, and other health problems that may affect the provision of services;

C. registration information that must be kept current and contain:

(1) the person's name, address, birth date, and telephone number;

(2) the names, addresses, and telephone numbers of the person's legal representative, family and friends, case manager, caregiver, physician or source of medical care, hospital of preference, and other professionals involved in the care and treatment of the person;

(3) a statement signed by the person or the person's legal representative authorizing the license holder to act in a medical emergency if the person's legal representative cannot be reached or is delayed in arriving;

(4) the name of each medication currently prescribed for the person, a schedule for administration, the proper dosage and possible side effects of the medication, and statements signed by the person or the person's legal representative authorizing the license holder to administer or assist in administering the medication, if applicable;

(5) a list of the person's specific dietary needs and food-related allergies, if applicable;

(6) the date the person began receiving residential-based habilitation services from the license holder and the reasons for service initiation; and

(7) the person's learning styles, methods, or communication, adaptive equipment used by the person, and the person's interests and preferences.

Subp. 3. **Review of plan file.** Before service initiation, each employee or subcontractor who is responsible for providing residential-based habilitation services to a person reviews the plan file as described in part 9525.2100, subpart 2, for that person. The license holder shall provide training to each employee or subcontractor in the methods to be used to achieve the goals and objectives for that person.

9525.2060 RIGHTS OF PERSONS RECEIVING SERVICES.

Subpart 1. **Statement of rights.** The rights of persons receiving home care services listed in Minnesota Statutes, section 144A.44, apply to the provision of residential-based habilitation services licensed under parts 9525.2000 to 9525.2140.

Subp. 2. **Interpretation and enforcement of rights.** A license holder under parts 9525.2000 to 9525.2140 is bound by the requirements of Minnesota Statutes, section 144A.44, subdivision 2, relating to the interpretation and enforcement of these rights. In addition, the license holder must inform each person, or the legal representative, of these rights in a form of communication that the person can understand. The license holder must document that the person or the person's legal representative received a copy and an explanation of the rights as listed in this part.

9525.2070 RESOURCES.

Subpart 1. **General.** The license holder shall ensure that each person retains and uses personal funds, unless restrictions are required in a person's IHP.

Subp. 2. **Separation of funds.** The license holder must ensure separation of each person's funds from funds of the license holder or staff.

Subp. 3. **Safekeeping.** If a person's IHP requires the license holder to assist the person with safekeeping of money or valuables, the license holder shall:

A. make available, if requested by the person or the person's case manager or legal representative, a statement itemizing the person's financial transactions;

B. limit the value of cash and valuables retained by the license holder to an amount designated by the person or the person's legal representative; and

C. return money and valuables in the license holder's keeping to the person or the person's legal representative, subject to restrictions in the person's individual service plan or IHP, within five working days after a request.

Subp. 4. **Prohibition.** The license holder shall ensure that the license holder, staff, and subcontractors do not:

A. borrow money from a person;

B. purchase personal items from a person; or

C. sell merchandise or personal services to a person.

9525.2080 SERVICE RECOMMENDATIONS.

The license holder shall provide written service recommendations to the county case manager and the person or the person's legal representative. Written service recommendations must be directed toward achieving the outcomes stated in part 9525.2030 and shall be prepared:

A. before the interdisciplinary team meeting, held during the first 30 days of service provision, where the individual habilitation plan is developed;

B. as part of the quarterly reports, the annual evaluation of service outcomes and additional reports prepared according to part 9525.2110;

C. upon completion of an assessment authorized by the county case manager as required in part 9525.2090;

D. following an incident requiring emergency intervention as described in part 9525.2100, subpart 3; and

E. when the license holder identifies a reason for the case manager to consider changing services, service methods, or service outcomes.

9525.2090 ASSESSMENT.

An initial assessment, as required in part 9525.0055, subpart 1, is the responsibility of the person's case manager. The license holder shall assess the person in any areas authorized by the case manager. When conducting an assessment, the license holder shall compare the person's performance, behavior, activity, and participation to that of nondisabled individuals in general. The license holder must provide the case manager and the person or the legal representative with a written summary of the completed assessment before the development of the IHP or when requested by the case manager. For each authorized area of assessment, the written summary must include an analysis of:

A. the person's current condition including a description of the person's behavior, skills, and lack of skills;

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

Proposed Rules

- B. the person's established support systems, including a description of the current level of supervision, training, and assistance received by the person;
- C. a description of the person's status and need for assistance, supervision, and training;
- D. how the person's behavior, skills, or lack of skills enables or prevents full integration into community settings used by the general public;
- E. an evaluation of the personal and environmental factors that may place the person at risk of abuse or neglect, as required in part 9555.8300; and
- F. service recommendations in accordance with part 9525.2080.

9525.2100 INDIVIDUAL HABILITATION PLAN DEVELOPMENT AND IMPLEMENTATION.

Subpart 1. **Participation in development of the IHP.** The IHP is developed at an interdisciplinary team meeting convened and chaired by the person's case manager. The license holder must participate in interdisciplinary team meetings and be involved in the development of the person's IHP.

Subp. 2. **Implementation of the IHP.** The license holder must provide the residential-based habilitation services specified in the IHP and authorized by the case manager. The license holder shall document the procedures and methods used to implement the IHP and describe how these procedures and methods are directed toward achieving the outcomes listed in part 9525.2030. This documentation must be initially developed within 30 calendar days of service initiation, must be reviewed at least annually, and revised as necessary. The procedures and methods must be consistent with the requirements of the IHP unless a modification of the IHP is agreed to by the person or the legal representative and is authorized by the case manager or unless modifications are required by emergency intervention described in subpart 3. The license holder's documentation of the procedures and methods used must include:

- A. behavioral objectives designed to result in achievement of the residential service outcomes specified in the person's current individual service plan and IHP;
- B. a baseline measurement of the person's skill level in each behavioral objective;
- C. the specific methods that will be used and the time frames for achieving each objective;
- D. a description of the physical and social environments, equipment, and materials that will be used for achieving each objective;
- E. a description of the types of data, the methods of data collection, and a schedule of data collection to measure outcomes;
- F. the names of the staff or contractors responsible for implementing each objective;
- G. a description of how the services provided by the license holder are coordinated with the services provided by other agencies and individuals listed in the plan file according to subpart 4, item L;
- H. a description of how the person's family and friends will participate in implementing the IHP; and
- I. medication administration procedures, if applicable, with written approval by a licensed physician or registered nurse.

Subp. 3. **Emergency intervention.** When the health or safety of the person is in imminent danger, the license holder must secure or provide necessary emergency intervention. Emergency intervention secured or provided by the license holder does not require prior county approval or prior referencing in the individual service plan. Within 24 hours of the incident, the license holder must notify the county, the person's family, and the person's legal representative of the emergency and the intervention provided. Within five working days of the incident, the license holder shall provide the case manager and the person or the person's legal representative a written summary of the incident. The summary must include a description of the presenting circumstances, the manner and results of the emergency intervention, a description and cost of the intervention, and written recommendations in accordance with part 9525.2080.

Subp. 4. **Plan file.** The license holder must have an individual plan file for each person receiving services. This file must be immediately available to the staff responsible for service implementation. The file must contain:

- A. The information listed in part 9525.2050, subpart 2.
- B. The assessment summaries described in part 9525.2090.
- C. The current IHP for the person.
- D. Documentation of the license holder's implementation of the IHP, as required by subpart 2, including the data collected to measure the person's progress.
- E. The quarterly reports described in part 9525.2110.

F. The annual evaluation of the service outcomes described in part 9525.2110 that includes the assessment information described in part 9525.2090.

G. The license holder's written recommendations to the case manager as required by part 9525.2080.

H. Documentation of QMRP coordination and supervision of service delivery required in part 9525.2130, subpart 2.

I. Reports describing the occurrence of and response by the license holder to any incident as defined in part 9525.2010, subpart 17. All incident reports must be in the plan file within 24 hours of the incident.

J. A record of all medications administered by the license holder and documentation of the monitoring of side effects.

K. A statement of the financial transactions for each person to whom the license holder has been authorized by the county case manager to provide assistance with money management.

L. A listing of other agencies or individuals providing services to the person. The listing must identify the name of the agency, the phone number of the contact person for the agency, the services provided to the person by the agency, and areas needing service coordination.

9525.2110 EVALUATION.

Subpart 1. **Quarterly reports.** The license holder must provide the case manager and the person, or the person's legal representative, a quarterly report containing a summary of data, an analysis of the data, and an evaluation of services actually provided. The information in the report must be sufficient to determine the extent to which services have resulted in achievement of the goals and objectives of the person's habilitation plan, and whether services are being provided in accordance with the IHP. The quarterly reports must also include the license holder's recommendations and rationale for changing or continuing the objectives or methods.

Subp. 2. **Annual evaluation of service outcomes.** During the last quarter of the person's service year, the license holder shall provide the case manager and the person or person's legal representative with a written, annual evaluation of the service outcomes. The annual evaluation must be completed before the annual review of the individual service plan or within 30 days of a written request by the case manager. The annual evaluation of service outcomes must include:

A. a summary of data indicating changes in behavior as they relate to the achievement of the outcomes in the IHP and the outcomes listed in part 9525.2030;

B. a summary of the results of any assessment authorized by the case manager and required in part 9525.2090; and

C. the license holder's recommendations and rationale for changing or continuing services, service methods, or service outcomes. Recommendations must be directed towards achieving the outcomes listed in part 9525.2030.

Subp. 3. **Additional reports.** The license holder shall provide additional reports as requested by the case manager.

9525.2120 TERMINATING SERVICES.

Subpart 1. **Written policy required.** The license holder must have a written policy that sets forth criteria for terminating services and specifies the procedures to be followed as services are terminated, including procedures for emergency termination.

Subp. 2. **Reporting intended terminations.** The license holder must notify the person and the person's case manager and legal representative in writing of the intended termination. Notice of the proposed termination of services must be given at least 30 days before the proposed termination is to become effective, unless termination is made according to emergency termination procedures required in subpart 1. The written notice must include the reasons for, and projected date of, the intended termination and the resources and services recommended to meet the person's needs.

9525.2130 STAFFING.

Subpart 1. **General staff qualifications.** License holders must ensure that each employee or subcontractor who will have direct contact with persons receiving services is at least 18 years of age, is not disqualified to provide services according to part 9525.2020, subpart 3, is physically able to care for persons receiving services, and does not present a risk of transmission of reportable communicable diseases as named in parts 4605.7000 to 4605.7800.

Subp. 2. **QMRP coordination and supervision of service delivery.** The ongoing delivery and evaluation of services provided by the license holder must be coordinated by a QMRP. The QMRP must provide coordination, support, and evaluation of services that must include:

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

A. Regular visits to observe and evaluate the implementation of programs and services identified in the IHP. Regular visits must occur at a minimum of two times each month or more often as specified in the IHP.

B. Documentation of the QMRP's evaluations and observations of visits. This documentation must be placed in the person's plan file and discussed with the staff members responsible for implementing the programs and services observed.

C. Visits at a minimum of once every seven calendar days when the QMRP finds unsatisfactory conditions while making a visit required in item A, until the QMRP determines that the unsatisfactory conditions have been corrected.

D. Regular instructions and assistance to the staff in implementing the IHP at a frequency consistent with the need to assure that the IHP is implemented in an appropriate and effective manner.

E. Identification and documentation of staff training needed to assure that the IHP is implemented in an appropriate and effective manner.

F. A review, completed at least once each month, of all program data and information regarding implementation of the IHP, including written recommendations for continuation or modification of the programs, objectives, and methods.

G. A review of incidents that require inpatient or outpatient medical treatment or law enforcement assistance. The QMRP must take appropriate action within 24 hours of the occurrence of the incident.

H. A review of all incident reports about the person receiving services. The reviews must be completed at least once each month and include identification of incident patterns and corrective action as necessary.

I. The completion or approval of the quarterly and annual reports required in part 9525.2110, subpart 1.

9525.2140 STAFF TRAINING AND ORIENTATION.

Subpart 1. **Orientation.** When a license holder employs or contracts with individuals to provide residential-based habilitation services, the license holder must provide orientation that meets the requirements in items A to F. The license holder shall maintain documentation showing that each individual has satisfactorily completed the required orientation.

A. The orientation must include:

(1) a review and explanation of the plan file described in part 9525.2100, subpart 4, for each person to whom the individual will be providing services;

(2) an explanation of the rights of persons as listed in part 9525.2060 and the methods used by the license holder to assure that rights are not violated;

(3) an explanation and discussion of the license holder's written policies, procedures, and practices, including those governing initiation, provision, and termination of services;

(4) an explanation of the specific job the employee will perform and training in the methods to be used in achieving the goals and objectives of the persons to whom the employee will be providing services. This training must specify how the methods used are directed toward achieving the service outcomes listed in part 9525.2030;

(5) an explanation of the requirements of Minnesota Statutes, sections 626.556 and 626.557, governing reporting of maltreatment of children and vulnerable adults, Minnesota Statutes, chapter 13, which is the Minnesota Government Data Practices Act, and parts 9555.8000 to 9555.8500 governing reporting of maltreatment of vulnerable adults;

(6) an explanation of the requirements of parts 9525.2700 to 9525.2810 governing use of aversive and deprivation procedures, for all individuals who are directly involved in the use of such procedures;

(7) an overview of the different types of developmental disabilities and their causes, a review of common terms and acronyms used in the field of developmental disabilities, and the principle of normalization and how the application of this principle has affected the services provided to persons with developmental disabilities; and

(8) an explanation of the approved procedures used to administer medications and to monitor side effects for all individuals who are responsible to administer or monitor medication.

B. The orientation must include both supervised on-the-job training and other types of training in an amount equal to at least 30 hours.

C. The orientation must be provided to all employees and supervised volunteers who regularly provide direct service. Volunteers who are directly supervised by employees may receive a modified eight-hour orientation instead of 30 hours.

D. The 30-hour orientation must be completed within the first 30 calendar days of employment or contracted service. Each employee or subcontractor must complete eight hours of orientation before providing direct services to persons.

E. The eight-hour orientation must be completed by a volunteer within the first 24 hours of volunteer work.

F Direct services provided by an employee shall be provided under the continuous and direct supervision of a QMRP until the employee has completed:

- (1) 20 hours of orientation; or
- (2) ten hours of orientation if the employee:

(a) has at least the equivalent of one year of experience within the past five years in the care, training, or supervision of persons with mental retardation or related conditions; or

(b) can document having completed, within the past two years, at least 24 hours of training related to the care, supervision, or training of persons with mental retardation or related conditions. If the training was received before employment, at least 12 of these hours of training must have been received within the 12-month period before employment;

G. Until the entire orientation has been satisfactorily completed, services provided by an employee or subcontractor not receiving continuous, direct supervision of a QMRP shall be limited to those service areas in which the employee or subcontractor has successfully completed orientation.

Subp. 2. Scope and schedule of ongoing training. When the license holder provides direct service, the license holder must annually complete a number of hours of training that equal two percent of the number of hours billed annually, up to 40 hours of training, as the license holder's time. If a license holder employs or contracts with an individual who provides direct service, the license holder must ensure that the individual annually completes a number of hours of training equal to at least two percent of the hours for which the individual is annually paid, up to 40 hours of training. In an employee's first year of employment, the ongoing training requirement for an employee not meeting the qualifications in subpart 1, item F, must be completed within the first 90 calendar days of the employment. The hours counted as training may include in-service training, new employee orientation, and training from educational coursework, conferences, seminars, videotapes, books, or other materials. The training must:

A. be scheduled so that it does not interfere with provision of the number of service days or hours the license holder is under contract to provide;

B. be documented as having been completed by each individual providing direct services;

C. address all areas identified by the QMRP or case manager as areas needing additional training to implement the requirements of the IHP's of persons receiving services; and

D. respond to the behavior, habilitative, health, and developmental needs of the persons receiving services.

Subp. 3. Content of ongoing training. When designing ongoing training, the license holder should consider the following areas of instruction, and training in one subject area shall not be provided to the exclusion of training in other areas:

A. additional training in the area specified in subpart 1;

B. conducting assessments of:

(1) skills and behaviors needed by persons in the environments where the skills and behaviors are typically used or displayed by nondisabled individuals;

(2) environmental, health, and communicative factors that influence a person's behavior; and

(3) the need for equipment or environments to assist persons in daily living, learning, and working;

C. developing and writing measurable objectives that focus on training persons in functional skill areas and are directed at achieving outcomes specified in part 9525.2030;

D. analyzing tasks and developing steps to achieve objectives and behavioral changes;

E. using positive instructional procedures and adaptations of equipment or environments to enable persons to live or work more independently and to actively interact in community settings with nondisabled individuals who are not paid staff. These procedures include positive techniques to achieve behavior change, use of advanced technology, alternative communication systems, and techniques for lifting, turning, positioning, or transferring persons;

F. collecting information and data that measure changes in person's behavior and the effectiveness of instructional procedures including the establishment of baseline measurement, and charting and graphing behavioral changes;

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

G. analyzing information to evaluate the effectiveness of instructional procedures in achieving goals and objectives of a person's IHP and outcomes specified in part 9525.2030;

H. developing methods and strategies to recommend service changes or to modify services for persons to more effectively achieve the goals and objectives of the IHP and outcomes specified in part 9525.2030, including Program Analysis of Service Systems (PASS);

I. protecting and assuring the health, safety, and well-being of persons, including first aid and cardiopulmonary resuscitation training and programs designed to promote a person's health and wellness; and

J. other areas identified by the QMRP or case manager as needed to improve the implementation of the IHP.

EFFECTIVE DATE. Minnesota Rules, parts 9525.2000 to 9525.2140 take effect six months after the notice of adoption is published in the *State Register*.

Department of Human Services

Proposed Permanent Rules Relating to Licensure of Residential Programs for Persons with Mental Retardation or Related Conditions

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 500 North, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota 55155, on November 14, 1988 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Proposed *Minnesota Rules*, parts 9525.0215 to 9525.0355 govern the licensure of residential programs for persons with mental retardation or related conditions. The proposed rule applies to residential programs that serve four or more persons with mental retardation or related conditions except for residential programs licensed as semi-independent living services under *Minnesota Rules*, parts 9525.0500 to 9525.0660 or residential programs licensed to provide residential-based habilitation services to four or fewer persons under *Minnesota Rules*, parts 9525.2000 to 9525.2130.

The proposed rule amends *Minnesota Rules*, parts 9525.0210 to 9525.0430 by updating minimum standards governing the operation of residential programs to reflect current standards of accepted practice. The proposed rule coordinates the provision of residential program services with the case management system established under *Minnesota Rules*, parts 9525.0015 to 9525.0165.

Parts 9525.0215 to 9525.0225 state the purpose of the rule, identify residential programs that are governed by rules other than parts 9525.0215 to 9525.0355, and define terms used in the rule.

Part 9525.0235 describes the standards and procedures for obtaining licensure as a residential program including the licensing study; factors that disqualify an individual from obtaining a license or being employed in a licensed residential program; and obtaining reconsideration of a disqualification or requesting a variance.

Part 9525.0245 establishes minimum program requirements, including provision of services in accordance with each person's Individual Service Plan and Individual Habilitation Plan and in accordance with stated service principles. Part 9525.0255 establishes minimum standards for the physical facility to ensure program standards are met.

Part 9525.0265 establishes criteria for the internal provider implementation plan, which is the internal plan of services developed for each person by the residential program.

Part 9525.0275 encourages family involvement in the provision of services by the residential program.

Part 9525.0285 establishes standards to safeguard persons' money and valuables and to ensure persons are trained for their use.

Part 9525.0295 establishes procedures for admitting and discharging persons from residential programs.

Parts 9525.0305, 9525.0315, 9525.0325, and 9525.0335 establish administrative requirements including resident record-keeping requirements; administrative organization; residential program policies; and administrative record-keeping.

Part 9525.0345 establishes minimum staffing requirements.

Part 9525.0355 establishes minimum standards for orientation and training of staff.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, chapter 245A and section 252.28, subdivision 2.

Adoption of these rule amendments will increase state and local public body spending by over \$100,000 in each of the first two years following adoption. See the fiscal note attached to this notice which contains the Department's reasonable estimate of the total cost to state and local bodies to implement the rules for the two years immediately following adoption of the rules.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Lynn Glockner, Department of Human Services, Developmental Disabilities Division, 444 Lafayette Road, St. Paul, MN 55155-3825, (612) 296-1898. A copy of the rule may also be viewed at any of the 87 county welfare agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Edward Skarnulis, Department of Human Services, Developmental Disabilities Division, 444 Lafayette Road, St. Paul, MN 55155-3825, (612) 296-9139, or Karen Peed, Department of Human Services, Residential Program Management, 444 Lafayette Road, St. Paul, MN 55155-3826, (612) 297-3703.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sandra S. Gardebring
Commissioner

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

Fiscal Note

The Department of Human Services has prepared a Fiscal Note according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2 estimating the fiscal impact of the proposed rule amending *Minnesota Rules*, parts 9525.0210 to 9525.0430. The Department estimates the total net cost to state and local public bodies over the next two years to be:

\$339,080 (State)
10,078 (Local)
\$349,158 (TOTAL)

BACKGROUND

The estimate of increased costs reflects new rule requirements relating to training of residential program staff. No other rule provisions are anticipated to increase state or local costs.

Although current part 9525.0400 requires staff orientation and training, there are no specific requirements regarding the number of hours or subject areas. The proposed rule requires staff orientation and training for direct services staff in specified topics up to a maximum of 40 hours annually per individual.

In order to receive medical assistance reimbursement residential programs certified as ICFs/MR have submitted to the Department annual cost reports showing a line item for training costs. However, providers have reported that training costs are not completely reflected on these reports because they do not include all training-relating costs; for example, the cost of hiring replacement staff to free supervisors to provide training would be included under personnel costs rather than as a training expense item.

SURVEY

In order to determine more accurately any additional costs resulting from the new training requirements, the Department conducted a survey of 54 residential programs randomly selected from the 338 residential programs that are governed by the proposed rule. All residential programs selected for the sample are community-based intermediate care facilities for persons with mental retardation or related conditions and approved providers under federal medical assistance regulations. A total of thirty-four responses were obtained. A copy of the spread sheet containing the statistics from each of the 34 programs is available from Lynn Glockner at (612) 296-1898 upon request.

State-operated regional treatment centers were excluded from the survey sample. Regional treatment centers currently provide staff more hours of training than will be required under the proposed rule, according to a report recently completed by the Department as part of the Welsch Negotiated Settlement compliance effort. While the regional treatment center training curricula may require modification to comply with the proposed rule, no increase in training hours or training costs is anticipated.

The five residential programs licensed under the proposed rule that are not approved for medical assistance reimbursement were excluded from the survey sample as well because they represent only 1% of the residential programs.

SURVEY METHODOLOGY

Respondents were asked to estimate the amount of training costs not reported under their training line item and the total number of training hours provided staff in their facility. The unreported training costs were added to the program's 1986 cost report figures (the latest available) to obtain total training costs for each respondent.

Total training costs were divided by total training hours to obtain the cost per hour of training for the program. The number of staff at the facility was divided by the total number of training hours to determine the number of training hours per staff currently provided. The difference between this number and the 40 hours required under the proposed rule was computed and multiplied by the program's hourly training cost and by the total number of staff at the facility to determine the additional cost to the facility to comply with the proposed rule.

Adding all additional training costs to the respondent programs yielded an annual total of \$93,557 for the 29 residential programs that submitted usable data.

The total number of employees represented by the sample is 853. The total number of employees affected by the new training requirements is 3,310.

Using a ratio of 853 staff at a total training cost of \$93,557 to 3310 staff yields a total additional training cost under the proposed rule of \$363,041 for each year, or \$726,082 for the biennium.

INCREASED STATE COSTS

During SFY 1990 and 1991, the state of Minnesota will assume 46.70% of all approved medical assistance expenditures. Therefore, the state's share of the additional training costs incurred by MA-eligible residential programs will be:

SFY 1990	SFY 1991	TOTAL
\$169,540	\$169,540	\$339,080

INCREASED LOCAL COSTS

As of January 1, 1989, the state will be assuming the county share of medical assistance costs (*Laws of Minnesota 1988*, chapter 719, Article 8, amending *Minnesota Statutes*, section 256B.041, subd. 5). Therefore there will be no increased medical assistance costs to local bodies as a result of the proposed rule.

However, increased training costs incurred by the five residential programs that do not receive medical assistance reimbursement will likely be passed on to local agencies and reflected in amended host county purchase of service contracts. Since no federal or state revenue is available, the additional training costs will likely become the responsibility of the county human service agencies that contract for services with these programs.

Assuming 75 direct services staff from these facilities will require 10.4 additional hours of training at \$6.46 per hour, the increased costs to local agencies as a result of the proposed rule are:

SFY 1990	SFY 1991	TOTAL
\$5,039	\$5,039	\$10,078

Dated: September 15, 1988

Sandra S. Gardebring, Commissioner
Department of Human Services

Rules as Proposed (all new material)**9525.0215 PURPOSE AND APPLICABILITY.**

Subpart 1. **Purpose and applicability.** The purpose of parts 9525.0215 to 9525.0355 is to establish minimum standards governing the operation of residential programs for persons with mental retardation or related conditions.

Subp. 2. **Exclusions.** Parts 9525.0215 to 9525.0355 do not apply to any of the following residential programs for persons with mental retardation or related conditions:

- A. residential programs serving three or fewer persons;
- B. home and community-based services licensed under parts 9525.2000 to 9525.2130 to provide residential-based habilitation services to four or fewer persons;
- C. semi-independent living services licensed under parts 9525.0500 to 9525.0660; or
- D. residential programs that are excluded from licensure under Minnesota Statutes, chapter 245A.

9525.0225 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9525.0215 to 9525.0355 have the meanings given to them in this part.

Subp. 2. **Adult.** "Adult" means a person 18 years of age or older.

Subp. 3. **Applicant.** "Applicant" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 3.

Subp. 4. **Baseline measurement.** "Baseline measurement" means the frequency, intensity, duration, or other quantification of a behavior that has been observed and recorded before initiating or changing an intervention or procedure to modify the behavior.

Subp. 5. **Case manager.** "Case manager" means the individual designated by the county board to provide case management services as defined in parts 9525.0015 to 9525.0165.

Subp. 6. **Child.** "Child" means a person under 18 years of age.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 8. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 9. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 10. **Direct service staff.** "Direct service staff" means employees of a residential program who train or directly supervise

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

persons receiving services in a residential program and who participate in the development or implementation of a person's provider implementation plan. Professional support staff, as defined in subpart 25, are direct service staff when they are working directly with persons and are involved in daily activities with persons.

Subp. 11. **Family.** "Family" means a person's biological or adoptive parents, stepparents, grandparents, siblings, children, grandchildren, or spouse.

Subp. 12. **Host county.** "Host county" has the meaning given in part 9525.0015, subpart 12.

Subp. 13. **Incident.** "Incident" means an injury, accident, or seizure requiring medical attention; an error in drug administration; a person's unauthorized absence from the residence; circumstances that involve a law enforcement agency; reports of abuse or neglect; or a person's death.

Subp. 14. **Individual habilitation plan or IHP.** "Individual habilitation plan" or "IHP" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 15. **Individual service plan or ISP.** "Individual service plan" or "ISP" means the written plan required by and developed under parts 9525.0015 to 9525.0165.

Subp. 16. **Interdisciplinary team.** "Interdisciplinary team" has the meaning given in part 9525.0015, subpart 15.

Subp. 17. **Intermediate care facility for persons with mental retardation or related conditions or ICF/MR.** "Intermediate care facility for persons with mental retardation or related conditions" or "ICF/MR" means a residential program licensed to provide services to persons with mental retardation or related conditions under Minnesota Statutes, section 252.28 and chapter 245A and a physical facility licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for ICFs/MR.

Subp. 18. **Legal representative.** "Legal representative" means the parent or parents of a person when that person is under 18 years of age, or a court-appointed guardian or conservator who is authorized by the court to make decisions about services for a person regardless of the person's age.

Subp. 19. **License.** "License" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 8.

Subp. 20. **License holder.** "License holder" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 9.

Subp. 21. **Living unit.** "Living unit" means a physically self-contained area, including living room, bathroom, and bedroom or bedrooms, that houses 16 or fewer residents. The living unit must meet the requirements in part 9525.0255, subpart 1.

Subp. 22. **Objective.** "Objective" means a short-term expectation and its accompanying measurable behavioral criteria specified in the individual habilitation plan and provider implementation plan. Objectives are set to facilitate achieving the annual goals in a person's individual service plan.

Subp. 23. **Outcome.** "Outcome" means the measure of change or the degree of attainment of specified goals and objectives that is achieved as a result of provision of service.

Subp. 24. **Person.** "Person" means a person with mental retardation or a related condition who is receiving services in a residential program licensed under parts 9525.0215 to 9525.0355.

Subp. 25. **Professional support staff.** "Professional support staff" means professional staff such as rehabilitation counselors, physical therapists, occupational therapists, registered nurses, speech therapists, and consulting psychologists, who assist the direct service staff by:

A. providing specific services to the same persons who are served by the direct service staff; or

B. instructing the direct service staff in procedures, practices, or programs to follow in providing services to persons.

Subp. 26. **Provider implementation plan or PIP.** "Provider implementation plan" or "PIP" means a detailed internal plan developed by the license holder and used within the residential program to direct the daily activities of staff in carrying out the objectives established within a person's individual habilitation plan. The provider implementation plan is frequently referred to as an individual program plan.

Subp. 27. **Residential program.** "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment for four or more persons with mental retardation or related conditions outside their own homes. Residential program includes both the residential facility and the program of services provided persons.

Subp. 28. **Variance.** "Variance" means written permission from the commissioner that allows an applicant or license holder to depart from specified provisions in parts 9525.0215 to 9525.0355.

9525.0235 LICENSURE.

Subpart 1. **License required.** An individual, corporation, partnership, voluntary association, or other organization must not operate a residential program unless licensed by the commissioner under parts 9525.0215 to 9525.0355.

Subp. 2. **Supervised living facility license.** The commissioner shall not issue a license to any applicant that does not have a valid supervised living facility license issued by the commissioner of health under Minnesota Statutes, section 144.56, and parts 4665.0100 to 4665.9900.

Subp. 3. **Approved need determination.** The commissioner shall not issue a license to any applicant that does not have an approved need determination under part 9525.0145. This subpart does not apply to regional treatment centers.

Subp. 4. **Background study.** Before a license is issued, a background study, as mandated by Minnesota Statutes, section 245A.04, subdivision 3, must be completed of the applicant, the applicant's employees, and any contractors and unsupervised volunteers who will have direct contact with persons.

Subp. 5. **Information on organization.** If the applicant is an authorized representative of a partnership, corporation, voluntary association, or other organization legally responsible for the operation of the residential program, the applicant must have available in the residential program's administrative records specified in part 9525.0335 the names and addresses of the owners and board members, the articles of incorporation, and an organizational chart.

Subp. 6. **Disqualification standards.** Minnesota Statutes, section 245A.04, subdivision 6, requires the commissioner to apply disqualification standards in this part to evaluate results of the study in subpart 4. In order to become licensed or to remain licensed under parts 9525.0215 to 9525.0355, an applicant or license holder must not be an individual, employ or contract with an individual, or use as a volunteer an individual who has any of the characteristics in items A to D.

A. The individual has a conviction of, has admitted to, has been charged with, is awaiting trial for, or there is substantial evidence indicating that the individual has committed:

(1) an act of physical abuse or sexual abuse as defined in Minnesota Statutes, section 626.556, even if the act occurred before the effective date of that statute;

(2) an act of abuse as defined in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d), clauses (1) to (3), even if the act occurred before the effective date of that statute;

(3) murder or manslaughter as defined in Minnesota Statutes, sections 609.185 to 609.205, and 609.2661 to 609.2665;

(4) the solicitation of children to engage in sexual conduct as defined in Minnesota Statutes, section 609.352; or

(5) an act or crime, similar to or the same as the acts or crimes listed in this item, that is listed under the laws of another state, the United States, or another country.

B. The individual has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged with, is awaiting trial for, or a preponderance of the evidence indicates the individual has committed:

(1) neglect as defined in Minnesota Statutes, section 626.556 or 626.557;

(2) a felony under Minnesota Statutes, chapter 152;

(3) any crime listed in Minnesota Statutes, sections 609.17; 609.175; 609.21 to 609.224; 609.23 to 609.294; 609.321 to 609.324; 609.33 to 609.345; 609.365; 609.377; 609.378; 609.52; 609.521; 609.525; 609.53; 609.54; 609.561 to 609.563; 609.582, subdivision 1; 609.625 to 609.635; 609.66 to 609.67; 609.687; 609.71; 609.713; 609.746; 609.79; 609.795; 609.821; 609.89; or 617.23; or

(4) an act or crime, similar to or the same as the acts or crimes listed in this item, that is listed under the laws of another state or of the United States or of another country.

C. The individual has mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20, and the behavior has a negative effect on the ability of the individual to provide services to persons.

D. The individual abuses prescription drugs or uses alcohol or controlled substances as named in Minnesota Statutes, chapter 152, or alcohol to the extent that the use or abuse impairs the individual's ability to provide services to persons.

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

Subp. 7. **Reevaluation of disqualification.** An applicant or license holder who is disqualified from licensure, or an employee, volunteer, or contractor of an applicant or license holder who is not permitted to work based on the disqualification standards in subpart 6 may request that the commissioner reevaluate the disqualification decision and set aside the disqualification. The request for reevaluation must be in writing and sent to the commissioner by certified mail.

A. A request for reevaluation of a disqualification based on subpart 6, item A, C, or D, must be accompanied by information establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 6, item A, C, or D, occurred based on the factors in item B.

B. A request for reevaluation of a disqualification based on subpart 6, item B, must be accompanied by:

(1) copies of information held by an individual, organization, or agency specified in Minnesota Statutes, section 254A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the event;

(2) a statement of the period of time elapsed since the event;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the event; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

C. In determining whether or not to set aside the disqualification, the commissioner shall consider the consequences of the event that led to the finding; the vulnerability of the victim of the event; the time elapsed without a repeat of the same or similar event; and documentation of successful completion of training or rehabilitation pertinent to the event.

D. The commissioner's disposition is the final administrative agency action.

Subp. 8. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term, a physical, mental health, chemical dependency, or criminal history evaluation of any individual who has direct contact with persons, if the commissioner has reasonable cause to believe any of the qualifications or requirements have not been met or that the individual cannot care for persons being served. Evaluations, if required, must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation. Evaluation refusal shall result in employment disqualification.

Subp. 9. **Separate licenses.** Applicants and license holders must have a separate license for each location where a residential program is operated.

Subp. 10. **Documentation of regulatory compliance.** The applicant or license holder must provide documentation that:

A. the residential program is in compliance with current state building, zoning, fire, and health codes and regulations and with other applicable local codes and ordinances; or

B. variances from compliance with the codes and ordinances in item A have been granted by the state or local unit of government with jurisdiction to enforce the code or ordinance.

Any deficiencies cited by a fire marshal, building official, or health officer as a threat to health and safety must be corrected and documented as corrected by the inspecting official before a license will be issued unless the inspecting official has granted and documented a variance.

Subp. 11. **Change in license terms.** The license holder must apply to the commissioner and a new license must be issued before the license holder:

A. moves the residential program to another location;

B. changes, sells, or transfers ownership or responsibility for the operation of the residential program;

C. changes the licensed capacity of the program;

D. changes the range of ages of residents served; or

E. changes the services identified in the residential program's current need determination.

Subp. 12. **Commissioner's rights of access.** The commissioner must be given access to the residential program, including grounds, residence, documents, residents, and staff in accordance with Minnesota Statutes, section 245A.04, subdivision 4.

Subp. 13. **Variances.** An applicant or license holder may request a variance to parts 9525.0215 to 9525.0355. A request for a variance must be in writing and sent to the commissioner. A copy must be provided to the board of county commissioners of the host county. The written request must specify:

A. the provision from which a variance is requested;

B. the reasons why the applicant or license holder cannot comply with the specified provision;

C. the period of time, not to exceed the greater of one year or the license term, for which the variance has been requested; and

D. the equivalent measures the applicant or license holder will take to ensure the health, safety, and rights of persons and to comply with the intent of parts 9525.0215 to 9525.0355 if the variance is granted.

Subp. 14. **Evaluation of a variance request.** A variance shall be granted only if the commissioner determines that the following conditions exist:

- A. the applicant or license holder has made a written request for variance that meets the requirements in subpart 13;
- B. granting the variance does not threaten the health, safety, or rights of persons receiving services;
- C. granting the variance does not violate Minnesota Statutes; and
- D. the applicant or license holder is in compliance with all other provisions of parts 9525.0215 to 9525.0355.

Subp. 15. **Notice by commissioner.** Within 30 days after receiving a request for a variance and the documentation supporting it, the commissioner shall inform the applicant or license holder in writing whether the request has been granted or denied and the reasons for this decision. The commissioner's decision to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

9525.0245 PROGRAM REQUIREMENTS FOR LICENSURE.

Subpart 1. **Individual service needs.** The license holder must ensure that services are provided or obtained for each person in accordance with the person's individual needs as specified in the ISP and IHP.

Subp. 2. **Service outcomes.** Methods, materials, and settings used to provide residential program services and to implement the provider implementation plan must be designed to:

- A. increase each person's independence in performing tasks and activities by teaching skills that reduce dependence on caregivers;
- B. provide training in the environment where the skill being taught is typically used, including community environments used by nondisabled individuals;
- C. increase each person's opportunities to interact with nondisabled individuals who are not paid caregivers in settings used by nondisabled individuals;
- D. increase each person's opportunities to use and participate in a variety of generic community resources and activities including but not limited to public transportation when available; recreational, cultural, and educational resources; stores; restaurants; and religious services when desired;
- E. increase each person's opportunities to develop decision-making skills, including but not limited to choosing roommates and friends, purchasing personal possessions including clothing, and participating in program planning; and
- F. use materials, activities, and interactions similar to those used by individuals of the same chronological age who are not disabled.

Subp. 3. **Least restrictive environment.** Each person's participation, movement, communication, and personal choices must be restricted only as necessary to protect the person and others, and as specified in the person's ISP. Supervision and assistance must be provided only when necessary for the person to complete a task, to participate in an activity, or to protect the person or others.

Subp. 4. **Level of participation.** The license holder must document measures, as required by each person's ISP, to increase the level of participation by the person in environments, activities, routines, and skills in which the person is unable to function independently. Measures include staff assistance or supervision, training methodologies, and adaptations to equipment or environments.

Subp. 5. **Staff conduct.** The license holder shall ensure that staff treat persons with respect, do not use language that emphasizes a person's disability, and protect the personal privacy needs of persons.

Subp. 6. **Rights of persons.** The license holder must ensure that the rights of persons are protected in accordance with Code of Federal Regulations, title 42, section 483.420, and Minnesota Statutes, section 144.651.

Subp. 7. **Ancillary services.** The license holder must document that resources outside the residential program are used in offering

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

ancillary services to persons. Ancillary services include temporary or periodic nonemergency services such as physical, dental, hearing, or orthopedic examinations.

Subp. 8. **Leaving the residence.** As specified in each person's ISP, each person must leave the residence to participate in daily education, employment, or community activities. The license holder shall ensure that the residential program is prepared to care for persons who are too ill to attend daily activities.

Subp. 9. **Routine.** The daily routine, including mealtimes, leisure, holidays, and school and work hours, must be similar to that followed in the community by individuals of similar chronological age.

9525.0255 PHYSICAL ENVIRONMENT.

Subpart 1. **Living unit.** A living unit must meet the requirements in items A to F

A. Each living unit must be physically and functionally differentiated from areas for vocational services. Training in self-care and independent living skills may be carried out in a person's living unit.

B. Walls separating living units and separating bedrooms from other living areas must extend from floor to ceiling.

C. The number of persons in a living unit must not exceed 16.

D. The number of persons sleeping in a bedroom must not exceed four in a residential program initially licensed before the effective date of parts 9525.0215 to 9525.0355. The number of persons sleeping in a bedroom must not exceed two in residential programs initially licensed after the effective date of parts 9525.0215 to 9525.0355.

E. Furnishings must be similar in appearance to those in typical homes and must be clean and maintained in good repair.

F. Persons must be provided individual storage space for personal possessions that is similar in size and appearance to that of an individual of the same age and sex who is not disabled.

Subp. 2. **Physical adaptations.** When a person has sensory, mobility, physical, or behavioral needs, the license holder shall ensure the residence and furnishings are physically adapted as needed to provide the services specified in the person's ISP or IHP.

Subp. 3. **Telephone.** The residential program must have a telephone available for personal use by persons in residence.

Subp. 4. **Locked doors.** Locked doors must not be used to restrict a person's movement or as a substitute for staff interaction with persons. Doors must remain unlocked to the same extent as residences in the community where the residential program is located.

9525.0265 PROVIDER IMPLEMENTATION PLAN.

Subpart 1. **Plan development.** The license holder must develop a provider implementation plan for each person.

A. The plan must be developed by a team that includes the living unit supervisor, direct service staff designated by the license holder, and any other service providers designated by the person or the person's legal representative, the case manager, and the living unit supervisor. If they choose, the person, the person's family or legal representative, and the person's case manager shall participate in developing the plan.

B. The plan must be based on the residential service needs identified in the person's ISP and must conform to the residential service objectives in the IHP.

C. The plan must be initially developed within 30 days after admission to the residential program and must be revised annually or when requested by the case manager. The plan may be developed at an IHP meeting.

D. The plan must be in writing and signed by the person or the person's legal representative.

E. The license holder must provide the person or the person's legal representative and the case manager with a copy of the plan within 30 days after the plan is developed or revised.

Subp. 2. **Evaluation.** Evaluations of skills the person needs to function more independently in the residential program and in the community must be conducted in the residential program and in community settings used by nondisabled individuals.

A. Within 30 days after a person's admission the license holder shall conduct any evaluation needed to supplement the preliminary assessment conducted before admission, including evaluation of:

(1) personal and environmental factors that may place a person at risk of abuse or neglect in accordance with part 9555.8300; and

(2) any additional areas requested by the person's case manager.

B. The license holder shall provide written summaries of all evaluations and specific service recommendations to the person's case manager and to the person and the person's legal representative.

C. The license holder shall advise the case manager when additional evaluations of the person are needed and shall conduct evaluations requested by the case manager.

Subp. 3. **Contents of provider implementation plan.** The provider implementation plan must include:

- A. written, measurable, behavioral objectives, including criteria for mastery, that are designed to result in achievement of the residential service outcomes in the person's current ISP and IHP;
- B. a statement describing how each objective addresses the residential service outcomes in the person's current ISP and IHP;
- C. a baseline measurement of the person's skill level in each behavioral objective;
- D. the specific methods that will be used and the schedule for achieving each objective;
- E. a description of the types of data and the methods and schedule of data collection to measure outcomes;
- F. the names of the staff or contractors responsible for implementing each objective;
- G. a description of how implementation of the plan will be coordinated with services provided by other agencies; and
- H. a description of how the person's family and friends will participate in implementing the plan.

Subp. 4. **Implementation.** The plan must be implemented in accordance with part 9525.0245.

Subp. 5. **Monthly evaluation.** The living unit supervisor shall monitor the person's performance in achieving the plan objectives monthly and shall:

- A. modify the methods used to implement the plan if indicated by objective measurements of performance;
- B. summarize in writing any modifications and directions to staff for implementing modifications; and
- C. sign and date the monthly evaluation.

Subp. 6. **Quarterly evaluations.** The license holder must provide the person's case manager with a quarterly report containing a summary of data, an analysis of the data, and an evaluation of services actually provided, sufficient to determine the extent to which services have resulted in achievement of the goals and objectives of the person's IHP and whether services are being provided in accordance with the IHP. The report must also state whether any changes are needed in the ISP or IHP.

Subp. 7. **Annual review.** At least 30 days before the annual review of the person's ISP and IHP, the license holder shall provide the person's case manager with:

- A. a written evaluation of service outcomes, including the extent to which residential services have resulted in achievement of the person's IHP objectives;
- B. copies of evaluations conducted under subpart 2; and
- C. recommendations for changes in the person's ISP and IHP.

Subp. 8. **Coordination with case manager.** The license holder shall ensure coordination with each person's case manager in accordance with items A to C.

- A. A staff member shall participate in the interdisciplinary team meeting that develops an IHP for each person.
- B. Within 30 days after an interdisciplinary team meeting, the license holder shall revise the PIP in accordance with subpart 1 and implement changes on dates approved in writing by the case manager.
- C. The license holder shall notify the case manager of:
 - (1) significant changes in the person's condition or circumstances that affect the person's ability to participate in accordance with the ISP or IHP;
 - (2) additional resources needed to implement the PIP; and
 - (3) changes in the residential program that affect the license holder's ability to implement the PIP.

9525.0275 FAMILY INVOLVEMENT.

Subpart 1. **Family participation.** The license holder shall invite each person's family to participate in providing services to the person. Services the family chooses to provide must be listed in writing and maintained in the person's file. Examples of family participation are transportation, leisure activities, religious observance, personal or professional services needed by the person, clothing, holidays and vacations, and adaptive devices or equipment.

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

Subp. 2. **Participation in planning.** If the person is a child or if a person who is an adult gives permission, the license holder shall invite the person's family to participate in the development and annual review of the PIP. A copy of the invitation must be placed in the person's file.

Subp. 3. **Visiting.** The license holder shall allow family members to visit at any time unless the person's IHP contains restrictions.

9525.0285 RESOURCES.

Subpart 1. **General.** The license holder shall ensure that each person retains and uses personal funds, unless restrictions are required in a person's IHP.

Subp. 2. **Separation of funds.** The license holder must ensure separation of each person's funds from funds of the license holder or residential program or staff.

Subp. 3. **Safekeeping.** If a person's IHP requires the residential program to assist the person with safekeeping of money or valuables, the license holder shall:

A. make available, if requested by the person or the person's case manager or legal representative, a statement itemizing the person's financial transactions;

B. limit the value of cash and valuables retained by the residential program to an amount designated by the person or the person's legal representative; and

C. return money and valuables in the license holder's keeping to the person or the person's legal representative, subject to restrictions in the IHP or ISP, within five working days after requested.

Subp. 4. **Prohibition.** License holders, staff, and contractors shall not:

A. borrow money from a person;

B. purchase personal items from a person; or

C. sell merchandise or personal services to a person.

9525.0295 ADMISSION AND DISCHARGE.

Subpart 1. **County authorization.** The license holder shall admit only persons for whom residence in a residential program has been authorized by a county board under part 9525.0085, subpart 2, or persons committed to the residential program under Minnesota Statutes, chapter 253B.

Subp. 2. **Written discharge policies and procedures.** The license holder must have written policies and procedures governing the discharge of persons from the residential program that meet the criteria in subparts 3 to 6.

Subp. 3. **Self-initiated discharge.** Discharge may be initiated at any time by a person or by a person's case manager in conjunction with the person or the person's legal representative.

Subp. 4. **Involuntary discharge.** Discharge may be initiated by the license holder if:

A. the license holder determines the residential program is unable to meet the person's needs; and

B. at least 30 days before the planned date of discharge the license holder:

(1) notifies the person who is to be discharged, the person's case manager, and the person's legal representative of:

(a) the services needed by the person that the residential program is unable to provide and the reasons the residential program is unable to provide them;

(b) the proposed date of discharge; and

(c) recommendations for more appropriate services; and

(2) makes a written request to the case manager to convene a screening meeting in accordance with Minnesota Statutes, section 256B.092, to determine appropriate services.

Subp. 5. **Discharge planning and follow-up.** The license holder shall ensure that residential program staff are available to participate in discharge planning and follow-up according to items A and B.

A. At least one staff member familiar with the person shall attend the discharge planning meeting convened by the person's case manager.

B. Staff familiar with the person shall be available to:

(1) provide a summary of the person's current medical status and current progress in achieving goals and objectives;

(2) review the ISP developed for discharge and recommend additional services or service modifications to the person's case manager and the discharge screening team; and

(3) assist the person's case manager to develop an interim habilitation plan for the person's first 30 days after discharge.

Subp. 6. **Discharge summary.** Within 30 days after discharge a discharge summary must be entered in the person's record that includes a review of the person's progress from the date of the person's last annual review to the discharge date, the program to which the person is discharged, and the date of discharge.

9525.0305 RESIDENT RECORDS.

Subpart 1. **General requirements.** The license holder shall maintain records for each person according to subparts 2 to 5. Entries must be in ink, legible, and signed and dated by the individual making the entry. The license holder shall retain records three years after a person leaves the residential program.

Subp. 2. **Admission records.** The license holder shall develop a record for each person upon admission that contains the following information:

- A. name, birth date, and social security number;
- B. date of admission and previous residential history;
- C. the name, address, and telephone number of the person's legal representative or family member designated to be contacted in case of emergency or discharge; case manager; and physician and dentist;
- D. whether the person is subject to guardianship or conservatorship;
- E. the language spoken or other means of communication understood by the person and the primary language or other means of communication used by the person's family;
- F. religious affiliation;
- G. copies of the person's IHP and supplemental reports included in the IHP; and
- H. a statement authorizing emergency medical treatment signed by the person or the person's legal representative.

Subp. 3. **Post-admission record keeping.** Each person's record must include up-to-date records of the following:

- A. A plan file that includes:
 - (1) The person's individual service plan and individual habilitation plan. When a person's case manager does not provide either a current ISP or a current IHP, the license holder shall make a written request to the case manager to provide copies of the ISP and IHP. The license holder shall make a written request to the case manager to convene the interdisciplinary team when a current ISP or IHP has not been developed.
 - (2) The provider implementation plan developed and maintained in accordance with part 9525.0265.
 - (3) The evaluations required in part 9525.0265, subparts 2 and 5.
 - (4) The quarterly evaluations required in part 9525.0265, subpart 6.
 - (5) The annual review required in part 9525.0265, subpart 7.
- B. Health records.
- C. Copies of invitations to the person's family or legal representatives to participate in provider implementation plan meetings.
- D. Incident reports involving the person, on a form prescribed by the commissioner.
- E. Dates of the person's visits with family members at the facility and at the person's family home.
- F. The discharge summary required under part 9525.0295, subpart 6, when the person is discharged from the residential program.
- G. A record of other service providers that includes the name of the provider, the contact person, phone number, services being provided, and services needing coordination with the residential program.

Subp. 4. **Access to records.** The license holder must ensure that the following people have access to the person's record:

- A. the person and the person's legal representative;
- B. the commissioner;

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

C. the person's case manager; and

D. direct service staff on the person's living unit and professional service staff as needed to carry out the IHP.

Subp. 5. **Confidentiality.** Except as provided in subpart 4, the license holder shall ensure the confidentiality of information in the person's record and shall not release information in the record without a written consent signed by the person or the person's legal representative that includes:

A. the date of authorization and length of time for which it is valid;

B. the purpose of releasing information;

C. the information to be released; and

D. the name of the individual or organization receiving the information.

9525.0315 ADMINISTRATION.

Subpart 1. **Governing body.** The license holder shall ensure that the residential program has a governing body that:

A. exercises general direction over the affairs of the residential program and determines the qualifications of the chief executive officer; or

B. meets the requirements of a governing body under Code of Federal Regulations, title 42, section 483.410(a).

The governing body may be the license holder or an individual or group appointed by the license holder.

Subp. 2. **Chief executive officer.** The license holder shall ensure that the residential program has a chief executive officer who is responsible for managing the daily operation of the residential program, including staff management.

Subp. 3. **Compliance with applicable laws and rules.** The residential program must be in compliance with all applicable federal, state, and local laws, regulations, ordinances, and codes at all times, including:

A. Minnesota Statutes, sections 144.50 to 144.56, and chapter 4665 governing sanitation and safety of the physical plant; food and nutrition requirements; health services; and medication handling procedures;

B. fire and safety standards of the Minnesota Department of Public Safety;

C. Minnesota Statutes, section 144.651, the Residents' Bill of Rights;

D. Minnesota Statutes, chapter 13, the Government Data Practices Act;

E. Minnesota Statutes, sections 626.556 and 626.557, and parts 9560.0210 to 9560.0234 and 9555.8000 to 9555.8500 governing the reporting of maltreatment of children and vulnerable adults; and

F. parts 9525.2700 to 9525.2810 governing the use of aversive and deprivation procedures.

9525.0325 WRITTEN POLICIES.

The license holder shall develop, annually review and update as needed, and implement written policies covering the areas in items A to L. The written policies must be provided to persons or their legal representatives upon admission, to each member of the governing body, and to the commissioner upon request. Copies of the written policies must be available to the host county and counties of financial responsibility, employees, and to others upon request. The areas to be covered include:

A. the philosophy and goals of the residential program;

B. a description of the services offered by the residential program consistent with the need determination made under part 9525.0145;

C. policies governing admission and discharge in accordance with part 9525.0295;

D. the residential program's fees, billing arrangements, and plans for payment;

E. personnel policies;

F. policies and procedures ensuring the exercise and protection of persons' rights in accordance with *Minnesota Statutes*, section 144.651, and Code of Federal Regulations, title 42, section 483.420(d);

G. policies for investigating incidents and taking corrective action;

H. policies for handling grievances of persons and their families that include providing the following information to persons and their families:

(1) name and phone number of an individual within the residential program to contact to register a complaint or dispute a decision;

- (2) time schedules for registration of complaints and disputes; and
- (3) time limits for decisions regarding complaints and disputes;

I. policies describing the methods used by the residential program to elicit the participation of persons and their families regarding the policies and procedures that affect them;

J. policies governing access to persons' records and the collection and dissemination of data on persons;

K. policies concerning the selection, training, assignment, and supervision of volunteers; and

L. policies for use of psychotropic medications that comply with the Psychotropic Medication Use Checklist which is incorporated by reference. This document is available for inspection at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155. It is not subject to frequent change.

9525.0335 ADMINISTRATIVE RECORDS.

The license holder shall maintain the following administrative records and shall make the records available for inspection by the commissioner:

- A. a listing of persons in the residential program that includes name, age, and sex;
- B. a copy of the current supervised living facility license issued by the commissioner of health under chapter 4665;
- C. a copy of the current certificate of need determination required under part 9525.0145;
- D. a copy, if applicable, of the residential program's certification as an ICF/MR;
- E. copies of all contracts, including contracts required under parts 9525.0015 to 9525.0165, subcontracts with consultants, and purchase-of-service contracts with other providers of persons' services;
- F. each person's records maintained in accordance with part 9525.0305;
- G. records of incidents, including the license holder's investigation and corrective action;
- H. records of fire drills and a copy of the emergency evacuation plan for each living unit;
- I. an organization chart;
- J. volunteer records, including qualifications and services being performed; and
- K. a written personnel file for each employee and contract consultant that includes:
 - (1) the individual's application or other written summary of the individual's qualifications;
 - (2) written job description that specifies responsibilities, qualifications necessary to perform the job, degree of authority to execute job responsibilities, and standards of job performance;
 - (3) the employee's health record; and
 - (4) for each direct services staff member, a training file that includes:
 - (a) documentation of orientation completed in accordance with part 9525.0355;
 - (b) documentation of training and education activities completed during employment; and
 - (c) an annual training plan.

9525.0345 STAFFING REQUIREMENTS.

Subpart 1. **Direct service staff.** Direct service staff must:

- A. be at least 18 years of age;
- B. be able to communicate in the communication mode of the persons with whom the staff member is working; examples of communication modes are sign language and communication boards; and
- C. demonstrate knowledge of and competence to implement the PIP for each person with whom the staff member is working on a regular basis.

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

Subp. 2. **Living unit supervisor.** The living unit supervisor must have the following qualifications:

- A. a bachelor's degree in education, human services, or related fields or three years' work experience with persons with mental retardation or related conditions;
- B. documented training or experience participating on interdisciplinary teams and performing residential program planning and writing individual goals and objectives; and
- C. completed orientation under part 9525.0355, subpart 2.

Subp. 3. **Licensure and certification requirements.** Staff and contract consultants with qualifications that require licensure, certification, or registration by the state of Minnesota must have the current licensure, certification, or registration in their field in their personnel file.

Subp. 4. **Minimum staffing requirements.** The license holder must ensure that there are present the number of direct service staff necessary to:

- A. implement each person's IHP and PIP; and
- B. meet the staff ratio requirements in Code of Federal Regulations, title 42, section 483.430(d).

Subp. 5. **Special staffing needs.** The license holder must employ specially trained staff to meet special physical, communication, or behavior needs of each person in accordance with the person's IHP.

Subp. 6. **Living unit staffing.** The license holder shall ensure each living unit is staffed in accordance with items A to C.

- A. At least one direct service staff member must be present and accessible whenever persons are present.
- B. Each living unit must have a living unit supervisor to coordinate or supervise the coordination of services to persons.
- C. A staff member trained in first aid and cardiopulmonary resuscitation; handling seizure disorders; and monitoring the side-effects of medication, including tardive dyskinesia, must be accessible when required in any person's ISP or health record.

9525.0355 STAFF ORIENTATION AND TRAINING.

Subpart 1. **Written plan.** The license holder must have a written plan for staff orientation and training that meets the requirements in subparts 2 to 7.

Subp. 2. **Orientation subjects.** Orientation must include the following subjects:

- A. a review and explanation of the plan file of each person with whom the individual will be regularly providing services;
- B. the rights of persons in *Minnesota Statutes*, section 144.651, and Code of Federal Regulations, title 42, section 483.420, and the methods used by the license holder to ensure rights are not violated;
- C. the license holder's written policies under part 9525.0325;
- D. the specific job the individual will perform and training in the methods to be used in achieving the goals and objectives of the persons with whom the individual will be regularly providing services. This training must specify how the methods used are directed toward achieving the service outcomes in part 9525.0245, subpart 2;
- E. the requirements of *Minnesota Statutes*, sections 626.556 and 626.557, and parts 9560.0210 to 9560.0234 and 9555.8000 to 9555.8500 governing reporting of maltreatment of children and vulnerable adults; and *Minnesota Statutes*, chapter 13, the Minnesota Data Practices Act;
- F. the requirements of parts 9525.2700 to 9525.2810 governing use of aversive and deprivation procedures, for all individuals who are directly involved in the use of such procedures;
- G. an overview of the different types of developmental disabilities and their causes, a review of common terms and acronyms used in the field of developmental disabilities, and the principle of normalization and how the application of this principle has affected the services provided to persons with developmental disabilities; and
- H. approved procedures used to administer medications and to monitor side effects, for all individuals who administer or monitor medication.

Subp. 3. **Orientation hours.** The license holder shall document that each new direct service staff member completes orientation in accordance with items A to C.

- A. Staff who are employed over 20 hours a week must complete 30 hours of orientation within the individual's first 30 calendar days of employment.
- B. Staff who are employed less than 20 hours a week must complete 30 hours of orientation within the individual's first 60 calendar days of employment.

C. The license holder may waive orientation in the subjects in subpart 2, items E to H, for staff who document completion within the previous two years of training in those subjects.

Subp. 4. **Volunteers and governing body.** Volunteers who provide direct services to persons must complete eight hours of orientation that includes at least items A to C in subpart 2. The license holder shall invite members of the governing body to complete the orientation provided volunteers.

Subp. 5. **Initial supervision.** During the first ten working days of employment or until orientation is completed, whichever occurs first, direct service staff who are working directly with persons must be supervised in person by staff who have completed orientation.

Subp. 6. **Training.** The license holder shall ensure and shall document that direct service staff annually complete the number of hours of training that equals at least two percent of the hours for which the individual is annually paid, up to 40 hours of training. Countable training hours include orientation, in-service training, or training from educational coursework, conferences, seminars, or video tapes.

Subp. 7. **Training subjects.** Annual training must include three or more of the following subjects:

- A. additional training in the orientation subjects in subpart 2, items E to H;
- B. conducting assessments of:
 - (1) skills and behaviors needed by persons in the environments where the skills and behaviors are typically used or displayed by nondisabled individuals;
 - (2) environmental, health, and communicative factors that influence a person's behavior; and
 - (3) the need for equipment or environments to assist persons in daily living, learning, and working;
- C. developing and writing measurable objectives that focus on training persons in functional skill areas and are directed at achieving the service outcomes in part 9525.0245, subpart 2;
- D. analyzing tasks and developing steps to achieve objectives and behavioral changes;
- E. using positive instructional procedures and adaptations of equipment or environments to enable persons to live or work more independently and to actively interact in community settings with nondisabled individuals who are not paid staff. These procedures include positive techniques to achieve behavior change, use of advanced technology, alternative communication systems, and techniques for lifting, turning, positioning, or transferring persons;
- F. collecting information and data that measure changes in persons' behavior and the effectiveness of instructional procedures, including the establishment of baseline measurement and charting and graphing behavioral changes;
- G. analyzing information to evaluate the effectiveness of instructional methods in achieving objectives of a person's PIP;
- H. developing methods and strategies to recommend service changes or to modify services for persons to more effectively achieve the goals and objectives of the IHP and service outcomes in part 9525.0245, subpart 2, including Program Analysis of Service Systems (PASS);
- I. assuring the health and safety of persons, including training in first aid and cardiopulmonary resuscitation; programs designed to promote a person's health and wellness; and monitoring the side-effects of medications, including tardive dyskinesia; and
- J. other areas identified by the living unit supervisor or case manager to improve the implementation of the PIP.

REPEALER. *Minnesota Rules*, parts 9525.0210; 9525.0220; 9525.0230; 9525.0240; 9525.0250; 9525.0260; 9525.0270; 9525.0280; 9525.0290; 9525.0300; 9525.0310; 9525.0320; 9525.0330; 9525.0340; 9525.0350; 9525.0360; 9525.0370; 9525.0380; 9525.0390; 9525.0400; 9525.0410; 9525.0420; and 9525.0430, are repealed.

Department of Human Services

Proposed Permanent Rules Relating to Medical Assistance and General Assistance Reimbursement

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

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155, on November 14, 1988 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 3, 1988 and November 13, 1988 at (612) 297-4997.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, Parts 9505.5000 to 9505.5105, clarify the policy and procedures for prior authorization of health services and establish a system for requiring a second opinion for certain elective surgical procedures. Both prior authorization and a second surgical opinion, when required by these rules, are conditions of Medical Assistance and General Assistance Medical Care reimbursement. These systems are designed to safeguard against the unnecessary or inappropriate expenditures of Medical Assistance or General Assistance Medical Care funds.

The Second Surgical Opinion system ensures that certain elective surgical procedures are not reimbursed under Medical Assistance or General Assistance Medical Care unless a confirming opinion of medical appropriateness is obtained from a physician in the same specialty area as the physician offering to provide the surgery. This rule affects providers of Medical Assistance and General Assistance Medical Care (inpatient and outpatient hospitals, physicians, and vendors of other health services), physicians who will provide a second or third opinion on the medical appropriateness of a surgical procedure, the medical review agent, and recipients of Medical Assistance and General Assistance Medical Care.

The proposed amendments combine the procedures for obtaining authorization of a surgery requiring a second surgical opinion with the admission certification procedures. This means that a provider calling to obtain a certification number will, simultaneously, in the majority of cases, be able to obtain an authorization number. This rule has therefore to be read in conjunction with the admission certification rule, parts 9505.0500 to 9505.0540. The amendments also provide that the second surgical opinion will be obtained from the medical review agent if the Department enters into a contract with the medical review agent.

The amended rule contains definitions of terms used in the rule, updates the citation on health services which require prior authorization, and clarifies the procedures to be followed if reimbursement is sought after the delivery of service, or if there is third party liability for Medical Assistance or General Assistance Medical Care payment. It also clarifies which surgical procedures require a second surgical opinion, and the conditions under which exemption from the second surgical opinion requirements can be obtained.

The amendments clarify definitions and qualifications for second and third surgical opinions, and the duties of the physician offering to provide the surgical service. There is clarification on the penalties that can be imposed, on the time limits for the surgical opinions, and on the responsibilities of the medical review agent, the Department, the physician offering to provide the surgery, and the second and third physicians. The amendments state the consequences of not obtaining the second or third opinion and the procedures for requesting exemptions in different situations.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256.991, and section 256D.03, subdivision 7(b). Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year

for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 297-4997.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sandra S. Gardebring
Commissioner

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256.991 and section 256D.03, subdivision 7(b).

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY

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

COMMENT PERIOD, A HEARING WILL BE HELD ON MONDAY, NOVEMBER 14, 1988, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services, between November 3, 1988 and November 13, 1988 at (612) 297-4997.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 297-4997.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 2, 1988.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from: Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854. A copy of the proposed amended rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, Parts 9505.5000 to 9505.5105, clarify the policy and procedures for prior authorization of health services and establish a system for requiring a second opinion for certain elective surgical procedures. Both prior authorization and a second surgical opinion, when required by these rules, are conditions of Medical Assistance and General Assistance Medical Care reimbursement. These systems are designed to safeguard against the unnecessary or inappropriate expenditures of Medical Assistance or General Assistance Medical Care funds.

The Second Surgical Opinion system ensures that certain elective surgical procedures are not reimbursed under Medical Assistance or General Assistance Medical Care unless a confirming opinion of medical appropriateness is obtained from a physician in the same specialty area as the physician offering to provide the surgery. This rule affects providers of Medical Assistance and General Assistance Medical Care (inpatient and outpatient hospitals, physicians, and vendors of other health services), physicians who will provide a second or third opinion on the medical appropriateness of a surgical procedure, the medical review agent, and recipients of Medical Assistance and General Assistance Medical Care.

The proposed amendments combine the procedures for obtaining authorization of a surgery requiring a second surgical opinion with the admission certification procedures. This means that a provider calling to obtain a certification number will, simultaneously, in the majority of cases, be able to obtain an authorization number. This rule has therefore to be read in conjunction with the admission certification rule, parts 9505.0500 to 9505.0540. The amendments also provide that the second surgical opinion will be obtained from the medical review agent if the Department enters into a contract with the medical review agent.

The amended rule contains definitions of terms used in the rule, updates the citation on health services which require prior authorization, and clarifies the procedures to be followed if reimbursement is sought after the delivery of service, or if there is third party liability for Medical Assistance or General Assistance Medical Care payment.

It also clarifies which surgical procedures require a second surgical opinion, and the conditions under which exemption from the second surgical opinion requirements can be obtained.

The amendments clarify definitions and qualifications for second and third surgical opinions, and the duties of the physician offering to provide the surgical service. There is clarification on the penalties that can be imposed, on the time limits for the surgical opinions, and on the responsibilities of the medical review agent, the Department, the physician offering to provide the surgery, and the second and third physicians. The amendments state the consequences of not obtaining the second or third opinion and the procedures for requesting exemptions in different situations.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854, upon request.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816.

Sandra S. Gardebring
Commissioner

Rules as Proposed

9505.5000 APPLICABILITY.

Parts 9505.5000 to 9505.5105 establish the procedures for prior authorization of health services and the requirement of a second surgical opinion as conditions of reimbursement to providers of health services for recipients of medical assistance and general assistance medical care.

These parts shall be read in conjunction with title XIX of the Social Security Act, Code of Federal Regulations, title 42, sections 430.00 to 489.57; *Minnesota Statutes*, sections 256B.01 to 256B.40; 256B.56 to 256B.71; 256D.01 to 256D.22; ~~and parts 9500.0750 to 9500.1100~~ 9500.1070, subparts 1, 4, 6, 12 to 15, and 23; 9505.0170 to 9505.0475; 9505.0500 to 9505.0540; 9505.1000 to 9505.1040; and 9505.1750 to 9505.2150, and with rules adopted by the commissioner under *Minnesota Statutes*, sections 256.991 and 256D.03, subdivision 7, clause (b).

9505.5005 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 1a. Authorization number. "Authorization number" means the number issued by the medical review agent that establishes that the surgical procedure requiring a second surgical opinion is medically appropriate.

Subp. 1b. Certification number. "Certification number" means the number issued by the medical review agent that establishes that all or part of a recipient's inpatient hospital services are medically necessary.

Subp. 2. to 12. [Unchanged.]

Subp. 12a. Medical appropriateness or medically appropriate. "Medical appropriateness" or "medically appropriate" refers to a determination, by a medical review agent or the department, that the recipient's need for a surgical procedure requiring a second surgical opinion meets the criteria in part 9505.0540 or that a second or third surgical opinion has substantiated the need for the procedure.

Subp. 12b. Medical review agent. "Medical review agent" means the representative of the department who is authorized in parts 9505.0500 to 9505.0540 to determine the medical appropriateness of procedures requiring second surgical opinions.

Subp. 13. to 18. [Unchanged.]

Subp. 18a. Second opinion or second surgical opinion. "Second opinion" or "second surgical opinion" means the determination by the medical review agent under part 9505.5050, subpart 1, or by a second physician under part 9505.5050, subpart 2, that a surgical procedure requiring a second surgical opinion is or is not medically appropriate.

Subp. 18b. Third opinion or third surgical opinion. "Third opinion" or "third surgical opinion" means the determination by a third physician under part 9505.5050, subpart 3, that a surgical procedure requiring a second surgical opinion is or is not medically appropriate.

Subp. 19. [Unchanged.]

9505.5010 PRIOR AUTHORIZATION REQUIREMENT.

Subpart 1. **Provider requirements.** Except as provided in part 9505.5015, a provider shall obtain prior authorization as a condition of reimbursement under the medical assistance and general assistance medical care programs for health services designated under parts 9500.1070, subparts 1, 4, 6, 12 to 15, and 23; 9505.0170 to 9505.0475; and 9505.5025; and *Minnesota Statutes*, section 256B.02, subdivision 8y. Prior authorization shall assure the provider reimbursement for the approved health service only if the service is given during a time the person is a recipient and the provider meets all requirements of the medical assistance or general assistance medical care programs.

Subp. 2. to 4. [Unchanged.]

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

9505.5015 RETROACTIVE AFTER THE FACT AUTHORIZATION.

Subpart 1. **Exceptions.** As provided in subparts 2 to 4, medical assistance or general assistance medical care programs reimbursement shall be given for a health service for which the required authorization was requested after the health service was delivered to the recipient. The provider of the health service shall submit the request on form DHS-1855 as required in part 9505.5010, subpart 3, and shall submit materials, reports, progress notes, admission histories, or other information that substantiates that the service was necessary to treat the recipient.

Subp. 2. **Emergencies.** A health service requiring prior authorization shall be ~~reimbursed without~~ retroactively receive prior authorization in an emergency if the provider submits the ~~prior request for authorization form, DPW-1855,~~ no later than five working days after providing the initial service and the provider documents the emergency ~~by submitting materials, reports, progress notes, admission histories, or other information which substantiates that the service was necessary to treat the recipient.~~

Subp. 3. **Retroactive eligibility.** When the health service was provided on or after the date on which the recipient's eligibility began, but before the date the case was opened, a health service requiring prior authorization shall be authorized retroactively if the health service meets the criteria in part 9505.5030, and if an authorization request is submitted to the department within 20 working days of the date the case was opened. ~~The request for retroactive authorization must be submitted to the department in the manner set in part 9505.5010.~~

Subp. 4. **Medicare denial Third party liability.** A health service originally billed to Medicare for which reimbursement was denied shall be reimbursed without prior authorization if the service meets the criteria of part 9505.5030 and if the authorization request is submitted to the department along with a copy of the explanation of Medicare benefits (EOMB), within 20 working days of the date of the EOMB. A provider of a health service originally billed to Medicare or a third party payer as defined in part 9505.0015, subpart 46, for which Medicare or the third party payer denied payment or made a partial payment may retroactively submit a request for authorization if the provider wants to receive payment of the difference between the medical assistance or general assistance medical care payment rate for the service and the payment by the third party payer. The service is eligible for medical assistance or general assistance medical care reimbursement if it meets the criteria in part 9505.5030 and if the authorization request is submitted to the department along with a copy of the notice explaining the denial or partial payment within 20 working days of the date of the notice.

9505.5035 SURGICAL PROCEDURES REQUIRING SECOND OPINION.

Subpart 1. **General requirements.** Except as provided in part 9505.5040, second surgical opinions shall be required for medical assistance and general assistance medical care recipients for inpatient and outpatient elective surgical procedures according to the list published in the *State Register* under *Minnesota Statutes*, section 256B.02, ~~subdivision 8 subdivisions 8a and 8d.~~ Publication shall occur ~~annually~~ in the last issue of the *State Register* for the month of October if there has been a revision in the list since the last October. In addition, the department shall publish any revision of the list at least 45 days before the effective date if the revisor imposes a second surgical opinion requirement. The department shall send each provider a copy of the published list or a revisor of the published list.

Subp. 2. [Unchanged.]

9505.5040 EXEMPTIONS TO SECOND SURGICAL OPINION REQUIREMENTS.

~~Provided~~ If the requirements of part 9505.5095 9505.5096 are met and the surgical procedure is medically appropriate as defined in part 9505.5005, subpart 12a, a second surgical opinion is not required ~~when in the circumstances set out in items A to F:~~

A. to F. [Unchanged.]

9505.5050 SECOND AND THIRD SURGICAL OPINION OPINIONS.

Subpart 1. Second surgical opinion by medical review agent. Except as provided in subpart 2, a second surgical opinion must be obtained from the medical review agent as specified in parts 9505.0520, subparts 6 and 8, and 9505.0540.

Subp. 2. Second surgical opinion by a second physician. If the department does not have a contract with the medical review agent to provide a second surgical opinion, a second surgical opinion must be obtained from a second physician.

Subp. 3. Third surgical opinion. When ~~If~~ a second surgical opinion obtained under subpart 1 or 2 fails to substantiate the initial surgical opinion and the recipient still wants the surgery, a third surgical opinion shall be obtained ~~if the recipient still wants the surgery from a third physician.~~ No opinion beyond the third opinion shall be considered in meeting the requirements of this part. The cost of an opinion beyond the third opinion shall not be reimbursed under the medical assistance or general assistance medical care ~~programs program.~~

9505.5055 SECOND OR THIRD OPINION BY A PHYSICIAN.

Subpart 1. **Requirements** Duties of recommending physician offering to provide the surgical service. The physician offering

to provide the surgical service If the recipient requires the opinion of a second physician under part 9505.5050, subpart 2, or if the medical review agent or the second physician determines that the surgical procedure requiring a second surgical opinion is medically inappropriate and the recipient needs a third opinion under part 9505.5050, subpart 3, the physician offering to provide the surgical service shall provide to the recipient in need of a the second or third surgical opinion, the names of at least two other physicians who are qualified to render a second or third the surgical opinion, or the name of an appropriate medical referral service, and information about the consequences of failing to obtain a second or third opinion. The physician offering the surgical service shall ensure that the required second opinion and, when required, or third opinion, are is obtained.

Subp. 2. Qualifications of physician offering second or third opinions. The physician offering the surgical service and the physician named to render a second or third opinion or the medical referral resource service shall have no direct shared financial interest or referral relationship resulting in a shared financial gain. The physician who gives a second or third opinion must be a provider and must meet the criteria on experience in treating and diagnosing the condition that requires a second or third surgical opinion as published in the State Register under part 9505.5035.

9505.5060 PENALTIES.

The penalties for failure to comply with parts 9505.5000 to 9505.5100 shall be imposed in accordance with parts 9505.1750 to 9505.2150 in addition to parts ~~9500.0960 and 9500.1080~~ 9505.0145, 9505.0465, and 9505.0475.

9505.5065 REIMBURSEMENT OF COST OF SECOND AND THIRD SURGICAL OPINIONS.

Reimbursement of the cost of a second and or third surgical opinions opinion under the medical assistance and general assistance medical care programs shall be permitted up to the allowable fee maximums as maintained by the department. When the physician who provides the second or third surgical opinion also performs the surgery, reimbursement for the surgery shall be denied.

9505.5070 TIME LIMITS; SECOND AND THIRD OPINIONS; SURGERY.

The second surgical opinion from the medical review agent or a second physician shall be obtained within 90 days of the date of the initial opinion. The third surgical opinion from a third physician, if required, shall be obtained within 45 days of the date of the ~~second~~ opinion of the medical review agent or the second physician. Approved surgery, if not performed within 180 days of the initial opinion, and if still requested by the recipient, shall require repetition of the second surgical opinion process as described in this part.

9505.5075 PHYSICIAN RESPONSIBILITY.

The physician who provides a second or third opinion shall indicate his or her approval or disapproval of the requested surgical procedure, on a form supplied by the department. The completed form shall contain all the information considered necessary by the commissioner to substantiate the second opinion, shall be personally signed by each physician providing an opinion, and shall be attached to a completed and signed prior authorization form, and shall be submitted to the department by the physician who is offering to provide the surgical service. The completed form must be returned to the physician offering to provide the surgical service and must be made available by the physician to the department as provided in part 9505.5080, or, on request, to a medical review agent under contract to the department.

9505.5080 FAILURE TO OBTAIN REQUIRED OPINIONS.

Subpart 1. Opinion of medical review agent. Failure of the physician who offers to provide a surgical procedure requiring a second opinion to obtain a required second or third surgical opinion from the medical review agent shall result in denial of reimbursement for all costs, direct and indirect, associated with the surgery, including costs attributable to other providers and hospitals.

Subp. 2. Opinion of second or third physician. Failure of a physician who offers to provide a surgical procedure requiring a second opinion to obtain the required surgical opinion from a second or third physician shall result in denial of reimbursement for all costs, direct and indirect, associated with the surgery, including costs attributable to other providers and hospitals except for the providers who rendered the second or third surgical opinion. If the physician is unable to secure the required second or third opinions to support the surgical procedure, the second surgical opinion form shall be submitted

Subp. 3. Submission of completed form to department. If the second or third opinion by a physician does not substantiate the need for the surgical procedure and if the department does not have a contract with a medical review agent, then the physician

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

offering to provide the surgical procedure shall submit the completed form to the department within 135 days of the date of the first opinion. Failure to comply with this subpart may result in termination of the provider's agreement with the department.

9505.5090 MEDICAL REVIEW AGENT AND DEPARTMENT RESPONSIBILITY.

Subpart 1. Medical review agent responsibility. Except as provided in subpart 2, if the medical review agent agrees that the requested surgical procedure is medically appropriate, the medical review agent shall certify that the requirements of this part are met, shall assign an authorization number within one working day of the medical review agent's receipt of the information, and shall issue a hospital admission certification number if the procedure requires inpatient hospital admission.

If the third physician, consulted according to part 9505.5050, subpart 3, agrees with the physician offering to provide the surgical service that the requested surgical procedure is medically appropriate, the medical review agent shall certify that the requirements of this part are met, shall assign an authorization number within one working day of the medical review agent's receipt of the necessary information and forms, and shall issue a hospital certification number.

If the third physician agrees with the second opinion provided by the medical review agent that the requested surgical procedure is not medically appropriate, then the medical review agent shall deny an authorization number and a certification number and the department shall deny authorization of reimbursement for the requested surgical procedure. The medical review agent shall send the recipient a copy of the notice denying authorization for the surgery and a statement of the recipient's right to appeal as provided in *Minnesota Statutes*, section 256.045.

Subp. 2. If no medical review agent. The department shall assign or deny an authorization number when the department does not have a contract with a medical review agent to determine the medical appropriateness of procedures requiring second surgical opinions.

If two of the three physicians ~~consent~~ agree that the requested surgical procedure is medically appropriate, the department shall certify that the requirements of this part are met and shall assign an authorization number within 30 working days of the department's receipt of the necessary information and forms.

If two of the three physicians ~~consent~~ agree that the requested surgical procedure is inappropriate, then the department shall deny authorization of reimbursement for the requested surgical procedure. The department shall send the recipient a copy of the notice denying authorization for the surgery and a statement of the recipient's right to appeal as provided in *Minnesota Statutes*, section 256.045.

9505.5096 REQUEST FOR EXEMPTION FROM SECOND SURGICAL OPINION.

Subpart 1. Request for exemption; general. A provider who believes a surgical procedure is exempt under part 9505.5040 from the second or third opinion requirement shall request approval of the exemption from the medical review agent or the department before carrying out the surgical procedure, except for exemptions under part 9505.5040, items B, C, and F, which may be requested after performing the surgical procedure.

Subp. 2. Request for exemption before carrying out surgical procedure. A provider shall request approval of the exemption either under item A or B.

A. If the department has a contract with a medical review agent, the provider shall call the medical review agent and provide the information required in parts 9505.5000 to 9505.5030.

B. If the department does not have a contract with a medical review agent, the provider shall submit the request to the department according to the prior authorization procedures in part 9505.5010.

Subp. 3. Request for exemption after performing the surgical procedure. If a provider chooses to carry out the surgical procedure before requesting approval of the exemption, the provider shall request approval of the exemption under item A or B.

A. If the department has a contract with a medical review agent, the provider shall submit to the medical review agent the medical records related to the recipient's medical condition, diagnosis, and treatment.

B. If the department does not have a contract with a medical review agent, the provider shall submit the request to the department according to the procedures in part 9505.5015.

Subp. 4. Retroactive eligibility. A hospital may seek an authorization number for a person found retroactively eligible for medical assistance or general assistance medical care program benefits after the date of admission. The hospital shall inform the physician offering to provide the surgical service of the authorization number of a retroactively eligible recipient. The physician offering to provide the surgical service and the hospital shall not seek an authorization number for a person whose application for the medical assistance or general assistance medical care program is pending. The medical review agent may require the hospital to submit, at its own expense, a copy of the complete medical record to substantiate the medical appropriateness of the surgical procedure. Failure to submit a requested record within 30 days of the request shall result in denial of the authorization number.

Subp. 5. Documentation required. A provider who believes a surgical procedure is exempt from the second and third opinion requirement under part 9505.5040 must submit supporting documentation with the request for exemption. If the provider requests approval of the exemption before performing the procedure, the department or medical review agent, as appropriate, may withhold approval of the exemption until the provider has submitted the documentation.

9505.5100 INDEPENDENT PHYSICIAN EVALUATION.

The commissioner shall have the right to order an independent evaluation by a physician selected by the recipient and approved by the commissioner when the commissioner has reason to believe, based on parts 9505.1750 to 9505.2150, that the requested surgical procedure is not ~~necessary~~ medically appropriate. If the recipient needs assistance locating an appropriate physician, the services of the local county medical society, or any other physician referral resource may be ~~utilized~~ used. If the selected physician determines the procedure is not ~~necessary~~ medically appropriate, the commissioner shall deny authorization.

9505.5105 FAIR HEARINGS AND APPEALS.

Subpart 1. **Appealable actions.** A recipient may appeal any of the following department actions:

- A. the ~~department has failed~~ department's failure to act with reasonable promptness on a request for prior authorization or on an authorization request under the second surgical opinion program, as established under parts 9505.5020, subpart 1, and 9505.5090;
- B. the ~~department has denied~~ department's denial of a request for prior authorization;
- C. the ~~department has denied~~ department's denial of an authorization request under the second surgical opinion program; or
- D. the ~~department has~~ department's proposed a reduction in service as an alternative to authorization of a proposed service for which prior authorization was requested.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Commissioner's ruling.** Within 90 days of the date of receipt of the recipient's request for a hearing, the commissioner shall make a ruling to uphold, reverse, or modify the action or decision of the department or the medical review agent. The commissioner's ruling shall be binding upon the department and the recipient unless a request for judicial review is filed pursuant to *Minnesota Statutes*, section 256.045, subdivision 7.

REPEALER. Minnesota Rules, part 9505.5095, is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Reimbursement for Inpatient Hospital Services

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155, on November 14, 1988 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 3, 1988 and November 13, 1988 at (612) 297-4997.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to

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

be included in the hearing record may be mailed to Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and *Minnesota Rules*, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "foreseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256.969, subdivision 6. Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 297-4997.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sandra S. Gardebring
Commissioner

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256.969 and section 256.969, subdivision 6.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON MONDAY, NOVEMBER 14, 1988, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 3, 1988 and November 13, 1988 at (612) 297-4997.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 297-4997.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 2, 1988.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from: Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854. A copy of the proposed amended rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, Parts 9500.1090 to 9500.1155, establish a prospective reimbursement system for inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. The reimbursement system established by these rules promotes cost containment by offering financial incentives for efficient and economical hospital operations. These rules affect providers and recipients of inpatient hospital services under the Medical Assistance and General Assistance Medical Care Programs.

The proposed amendments to these rules remove inconsistencies between this rule and *Minnesota Rules*, parts 9505.0500 to 9505.0540 which is a related medical assistance and general assistance medical care rule. Parts 9505.0500 to 9505.0540 outline the admission certification procedures which providers of Medical Assistance and General Assistance services have to follow to be eligible for reimbursement under parts 9500.1090 to 9500.1155.

The amendments to parts 9500.1090 to 9500.1155 explain that this rule has to be read in conjunction with parts 9505.0500 to 9505.0540. They also clarify the definitions of "diagnostic categories", "inpatient hospital services", "medical assistance", and "transfer"; delete the definition of "foreseeable complications"; and change the definition of "readmission" to make these terms consistent with the definitions in parts 9505.0500 to 9505.0540. The amendments clarify the criteria used by the department for determining adjustments to reimbursement, rejection of claims, and for reimbursement for readmissions and transfers. The criteria are set out in detail in parts 9505.0500 to 9500.0540.

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854, upon request.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816.

Sandra S. Gardebring
Commissioner

Rules as Proposed

9500.1090 PURPOSE AND SCOPE.

Parts 9500.1090 to 9500.1155 establish a prospective reimbursement system for inpatient hospital services provided under medical assistance.

All provisions of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 5 6, shall apply to general assistance medical care substituting the terms and data for general assistance medical care for the terms and data referenced for medical assistance.

Effective January 1, 1987, reimbursements for medical assistance shall be partitioned into reimbursements for persons determined eligible for Aid to Families with Dependent Children or Aid to Families with Dependent Children extended medical coverage and for persons determined eligible for medical assistance on some other basis, including persons eligible because of receipt of Supplemental Security Income and Minnesota Supplemental Aid and persons eligible as medically needy.

9500.1095 STATUTORY AUTHORITY.

Parts 9500.1090 to 9500.1155 are authorized by *Minnesota Statutes*, section 256.969, subdivisions 2 and 6. Parts 9500.1090 to 9500.1155 must be read in conjunction with Titles XVIII and XIX of the Social Security Act, Code of Federal Regulations, title 42, and *Minnesota Statutes*, chapters 256, 256B, and 256D, and parts 9505.0500 to 9505.0540.

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the ~~classification of inpatient hospital services~~ list of diagnostic related groups in the diagnostic classification system established under *Minnesota Statutes*, section 256.969, subdivision 2, according to the diagnostic related groups (DRGs) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to NN. [Unchanged.]	

Subp. 21. [Unchanged.]

Subp. 21a. [See Repealer.]

Subp. 22. to 26. [Unchanged.]

Subp. 27. **Inpatient hospital service.** "Inpatient hospital service" means a service provided by or under the supervision of a physician after a recipient's admission to a hospital and furnished in ~~a the~~ the hospital for the care and treatment of ~~a the~~ the recipient. The inpatient hospital service may be furnished by a hospital, physician, or a vendor of an ancillary service which is prescribed by a physician and which is eligible for medical assistance or general assistance medical care reimbursement.

Subp. 28. [Unchanged.]

Subp. 29. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under Title XIX of the Social Security Act and *Minnesota Statutes*, chapter 256B. For purposes of parts 9500.1090 to 9500.1155, except part 9500.1155, subpart 6, "medical assistance" includes general assistance medical care unless otherwise specified.

Subp. 30. to 41. [Unchanged.]

Subp. 42. **Readmission.** "Readmission" means an admission that occurs within ~~seven~~ 15 days of a discharge of the same recipient. The 15-day period does not include the day of discharge or the day of readmission.

Subp. 43. to 49. [Unchanged.]

Subp. 50. **Transfer.** "Transfer" means the movement of a recipient after admission from one hospital directly to another.

Subp. 51. and 52. [Unchanged.]

9500.1130 REIMBURSEMENT PROCEDURES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Adjustment to reimbursement.** Reimbursements shall be adjusted by the department for the reasons specified in subpart 5 and for inappropriate utilization as determined by the commissioner under parts 9505.0500 to 9505.0540 and parts 9505.1910 to 9505.2020 and as otherwise provided by law. Adjustment to a hospital's account shall be ~~by debit~~ according to parts 9505.0500 to 9505.0540.

Subp. 5. **Rejection of claims.** Claims shall be rejected by the department for the reasons specified in items A and B.

A. Claims will not be reimbursed for a hospital's failure if the hospital fails to:

~~A-~~ (1) obtain prior authorization;

~~B-~~ (2) provide documentation of a confirming second surgical opinion;

~~C-~~ (3) receive admission certification; and or

~~D-~~ (4) assign a claim to one of diagnostic categories A to H in part 9500.1100, subpart 20.

B. Claims will not be reimbursed if inpatient hospital services have already been denied under Medicare.

Subp. 6. [Unchanged.]

Subp. 7. **Reimbursement for transfers.** Reimbursement for transfers shall be made as specified in items A and B.

A. [Unchanged.]

B. A discharging hospital is not eligible for a transfer reimbursement under item A for services provided to a discharged recipient if ~~one of the following conditions exists:~~

~~(1) the failure of the discharging hospital to provide all inpatient hospital services that are medically necessary to treat a condition that could or should have been treated during the initial admission or to treat a foreseeable complication of the original diagnoses; or~~

~~(2) except in the case of an the admission to the discharging hospital was not due to an emergency, (as defined in part 9505.0500, subpart 11) admission, and the discharging hospital knew or had reason to know at the time of admission that the inpatient hospital services that were medically necessary for treatment of the recipient were outside the scope of the hospital's available services and the readmission to another hospital resulted because of the recipient's need for those services.~~

Subp. 8. **Reimbursement for readmissions.** An admission and readmission to the same or a different hospital ~~for the treatment of a condition that could or should have been treated during the initial admission, or for the treatment of complications of the original diagnoses, shall be reimbursed with one applicable categorical rate per admission and as an outlier if eligible. The combined stay of the admission and readmission shall be used to determine eligibility for outlier reimbursement. If the readmission to the same hospital is for a condition unrelated to the previous admission, including an episodic illness such as asthma or uncontrolled diabetes mellitus, the admission and readmission shall be reimbursed separately with the applicable categorical rate per admission; out-of-area hospital categorical rate per admission; categorical rate per admission for MSA and non-MSA hospitals statewide that do not have admissions in the base year; transfer reimbursement; or rate per admission. An admission and subsequent readmission to a different hospital shall be reimbursed as specified under subpart 7 when the readmission is for the treatment of a condition that could or should have been treated during the initial admission, or for the treatment of foreseeable complications of the original diagnoses. If the readmission to a different hospital is due to a condition that is unrelated to the condition treated during the previous admission, including an episodic illness, the admission and readmission shall be reimbursed separately with the applicable categorical~~

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

rate per admission; out-of-area hospital categorical rate per admission; categorical rate per admission for MSA and non-MSA hospitals statewide that do not have admissions in the base year; transfer reimbursement; or rate per admission shall be eligible for reimbursement according to the criteria in parts 9505.0500 to 9505.0540.

Subp. 9. to 12. [Unchanged.]

REPEALER. Minnesota Rules, part 9500.1100, subpart 21a is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Physician and Hospital Certification for Payment of Medical Assistance and General Assistance Medical Care for Inpatient Hospital Services

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 2A and 2B, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155, on November 14, 1988 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 3, 1988 and November 13, 1988 at (612) 297-4997.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Howard Kaibel, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, Parts 9505.0500 to 9505.0540, establish a system for reviewing the utilization of inpatient hospital services under the Medical Assistance and General Medical Care programs. These rules are designed to guard against excess payments and to reduce expenditures which result from inappropriate hospitalization of MA and GAMC recipients.

Besides persons receiving MA and GAMC services, this rule affects providers of MA/GAMC services who are responsible for following the procedures specified in the rule, and the medical review agent who is responsible for reviewing the necessity of admissions and the appropriateness of the surgical services provided.

The proposed amendments to these rules remove inconsistencies between this rule and *Minnesota Rules*, parts 9500.1090 to 9500.1155, which is a related medical assistance and general assistance medical care rule. Parts 9500.1090 to 9500.1155 govern the reimbursement for inpatient hospital services to be provided to Medical Assistance and General Assistance Medical Care recipients, and have to be read in conjunction with the present rule.

The amendments expand the time frame for readmissions and clarify the criteria for a readmission considered as a second admission, a readmission considered as continuous with the first admission, and a readmission considered as a transfer. The amendments also specify procedures to be followed by providers of Medical Assistance and General Assistance Medical Care to be eligible for reimbursement, and incorporate the second surgical opinion process into the admission certification process.

The amended rule contains definitions of terms used in the rule and amends existing definitions. It amends the scope of the rule, exclusions from admission certification requirements, and the time requirements for excluding obstetrical services from admission certification requirements. The rule expands the responsibilities of the admitting physician, the medical review agent and the Department. It specifies the procedures to be followed by providers to obtain the authorization number or certification number. It contains changes to reconsideration procedures, procedures for retention or withdrawal of certification number, and medical record review and determination by the medical review agent.

The amended rule contains additional consequences of withdrawal of admission certification or authorization number, and provides for recovery of payment after withdrawal of admission certification or authorization number. It prohibits recovery from the recipient, provides the recipient with right to appeal if the recipient is denied inpatient hospital services, and provides for physician adviser's review of readmissions.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256B.04, subdivisions 2 and 15, section 256B.503, and section 256D.03 subdivision 7(b). Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 297-4997.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sandra S. Gardebring
Commissioner

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

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.04 subdivisions 2 and 15, section 256B.503, and 256D.03, subdivision 7(b).

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON MONDAY, NOVEMBER 14, 1988, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services, between November 3, 1988 and November 13, 1988, at (612) 297-4997.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 297-4997.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 2, 1988.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from: Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854. A copy of the proposed amended rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Minnesota Rules, parts 9505.0500 to 9505.0540, establish a system for reviewing the utilization of inpatient hospital services under the Medical Assistance and General Assistance Medical Care programs. These rules are designed to guard against excess payments and to reduce expenditures which result from inappropriate hospitalization of MA and GAMC recipients.

Besides persons receiving Medical Assistance and General Assistance Medical Care services, this rule affects providers of Medical Assistance and General Assistance Medical Care services who are responsible for following the procedures specified in the rule, and the medical review agent who is responsible for reviewing the necessity of admissions and the appropriateness of the surgical services provided.

The proposed amendments to these rules remove inconsistencies between this rule and *Minnesota Rules*, parts 9500.1090 to 9500.1155, which is a related medical assistance and general assistance medical care rule. Parts 9500.1090 to 9500.1155 govern the reimbursement for inpatient hospital services to be provided to Medical Assistance and General Assistance Medical Care recipients, and have to be read in conjunction with the present rule.

The amendments expand the time frame for readmissions and clarify the criteria for a readmission considered as a second admission, a readmission considered as continuous with the first admission, and a readmission considered as a transfer. The amendments also specify procedures to be followed by providers of Medical Assistance and General Assistance Medical Care to be eligible for reimbursement, and incorporate the second surgical opinion process into the admission certification process.

The amended rule contains definitions of terms used in the rule and amends existing definitions. It amends the scope of the rule, exclusions from admission certification requirements, and the time requirements for excluding obstetrical services from admission certification requirements.

The rule expands the responsibilities of the admitting physician, the medical review agent and the Department. It specifies the procedures to be followed by providers to obtain the authorization number or certification number. It contains changes to reconsideration procedures, procedures for retention or withdrawal of certification number, and medical record review and determination by the medical review agent.

The amended rule contains additional consequences of withdrawal of admission certification or authorization number, and provides for recovery of payment after withdrawal of admission certification or authorization number. It prohibits recovery from the recipient,

provides the recipient with right to appeal if the recipient is denied inpatient hospital services, and provides for physician adviser's review of readmissions.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854, upon request.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816, telephone (612) 296-2854.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of the material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Anu Seam, Department of Human Services, Rules Division, 444 Lafayette Road, St. Paul, MN 55155-3816.

Sandra S. Gardebring
Commissioner

Rules as Proposed

9505.0500 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Admission certification.** "Admission certification" means the determination of the medical review agent that all or part of a recipient's inpatient hospitalization is hospital services are medically necessary and that medical assistance or general assistance medical care funds may be used to pay the admitting physician, hospital, and other vendors of inpatient hospital services for providing medically necessary services, subject to parts ~~9500.0750 to 9500.1080, 9500.1070, subparts 1, 4, 6, 12 to 15, and 23; 9500.1090 to 9500.1155; 9505.0170 to 9505.0475;~~ 9505.1000 to 9505.1040; and 9505.5000 to 9505.5105.

Subp. 3a. **Admitting diagnosis.** "Admitting diagnosis" means the physician's tentative or provisional diagnosis of the recipient's condition as a basis for examination and treatment when the physician requests admission certification.

Subp. 4. [Unchanged.]

Subp. 4a. **Authorization number.** "Authorization number" means the number issued by the medical review agent that establishes that the surgical procedure requiring a second surgical opinion is medically appropriate.

Subp. 5. **Certification number.** "Certification number" means the number issued by the medical review agent that establishes that all or part of a recipient's inpatient hospital services are medically necessary.

Subp. 6. to 8. [Unchanged.]

Subp. 9. **Continued stay review.** "Continued stay review" means a review and determination, after the admission certification and during a patient's hospitalization, of the medical necessity of continuing inpatient hospital services to the recipient's stay at a hospital level of care recipient.

Subp. 10. [Unchanged.]

Subp. 10a. **Diagnostic category.** "Diagnostic category" means the list of diagnosis-related groups in the diagnostic classification system established under *Minnesota Statutes*, section 256.969, subdivision 2, and defined in part 9500.1100, subpart 20.

Subp. 10b. **Diagnostic category validation or validate the diagnostic category.** "Diagnostic category validation" or "validate the diagnostic category" refers to the process of comparing the medical record to the information submitted on the inpatient hospital billing form required by the department to ascertain the accuracy of the information upon which the diagnostic category was assigned.

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

Subp. 11. to 13. [Unchanged.]

Subp. 14. **Inpatient hospital service.** "Inpatient hospital service" means a service provided by or under the supervision of a physician after a recipient's admission to a hospital and furnished in a the hospital for the care and treatment of a the recipient. The inpatient hospital service may be furnished by a hospital, physician, or a vendor of an ancillary service which is prescribed by a physician that may be paid and which is eligible for under medical assistance or general assistance medical care reimbursement.

Subp. 15. [Unchanged.]

Subp. 16. **Medical assistance or MA.** "Medical assistance" or "MA" means the program established under title XIX of the Social Security Act and *Minnesota Statutes*, chapter 256B. For purposes of parts 9505.0500 to 9505.0540, "medical assistance" includes general assistance medical care unless otherwise specified.

Subp. 17. [Unchanged.]

Subp. 18. **Medical review agent.** "Medical review agent" means the representative of the commissioner who is authorized by the commissioner to make decisions about admission certifications, concurrent reviews, continued stay reviews, ~~and~~ retrospective reviews, and second surgical opinions if such opinions are a term of the agent's contract with the department.

Subp. 19. [Unchanged.]

Subp. 19a. **Medically appropriate or medical appropriateness.** "Medically appropriate" or "medical appropriateness" refers to a determination, by a medical review agent or the department, that the recipient's need for a surgical procedure requiring a second surgical opinion meets the criteria in part 9505.0540 or that a third surgical opinion has substantiated the need for the procedure.

Subp. 20. and 21. [Unchanged.]

Subp. 22. **Physician adviser.** "Physician adviser" means a physician who practices in the specialty area of the recipient's primary admitting or principal diagnosis or a specialty area related to the primary admitting or principal diagnosis.

Subp. 23. [Unchanged.]

Subp. 23a. **Principal diagnosis.** "Principal diagnosis" means the condition established, after study, to be chiefly responsible for causing the admission of the recipient to the hospital for inpatient hospital services.

Subp. 23b. **Principal procedure.** "Principal procedure" means a procedure performed for definitive treatment of the recipient's principal diagnosis rather than one performed for diagnostic or exploratory purposes or a procedure necessary to take care of a complication. When multiple procedures are performed for definitive treatment, the principal procedure is the procedure most closely related to the principal diagnosis.

Subp. 23c. **Provider.** "Provider" means an individual or organization under an agreement with the department to furnish health services to persons eligible for the medical assistance or general assistance medical care programs. Providers include hospitals, admitting physicians, and vendors of other services.

Subp. 24. **Readmission.** "Readmission" means an admission that occurs within ~~seven~~ 15 days of a discharge of the same recipient. The 15-day period does not include the day of discharge or the day of readmission.

Subp. 25. and 26. [Unchanged.]

Subp. 27. **Retrospective review.** "Retrospective review" means a review conducted after inpatient hospital services are provided to a recipient. The review is focused on validating the diagnostic category and determining the medical necessity of the admission, the medical necessity of any inpatient hospital services provided, the medical appropriateness of a surgical procedure requiring a second opinion, and whether all medically necessary inpatient hospital services were provided.

Subp. 28. **Second surgical opinion.** "Second surgical opinion" means the confirmation or denial of the medical appropriateness of a proposed surgery as specified in parts 9505.5000 to 9505.5105.

Subp. 29. **Transfer.** "Transfer" means the movement of a recipient after admission from one hospital directly to another.

9505.0510 APPLICABILITY SCOPE.

Parts 9505.0500 to 9505.0540 establish the standards and procedures for admission certification to be followed by admitting physicians and hospitals seeking medical assistance or general assistance medical care payment under parts 9500.1090 to 9500.1155 for inpatient hospital services provided to medical assistance or general assistance medical care recipients under *Minnesota Statutes*, chapters 256B and 256D. Parts 9505.0500 to 9505.0540 are to be read in conjunction with Code of Federal Regulations, title 42, and titles XVIII and XIX of the Social Security Act. The department retains the authority to approve prior authorizations established under parts 9505.5000 to ~~9505.5405~~ 9505.5030 and second surgical opinions established under parts 9505.5035 to 9505.5105. Parts 9505.0500 to 9505.0540 do not apply to out-of-state hospitals and A hospital or admitting physicians physician who seek

seeks medical assistance or general assistance medical care program payment for inpatient hospital services provided to recipients who are Minnesota residents. Instate admitting physicians who admit a Minnesota resident who is a recipient to an out-of-state hospital must comply with parts 9505.0500 to 9505.0540. Out-of-state admitting physicians who admit a Minnesota resident who is a recipient to an in-state hospital must comply with parts 9505.0500 to 9505.0540 a Minnesota recipient must comply with the requirements of parts 9505.0500 to 9505.0540 unless the hospital or admitting physician has received prior authorization for inpatient hospital services under parts 9505.0170 to 9505.0475. Admission certification must be obtained when a recipient moves from one hospital with a provider number to another hospital with a different provider number or from one unit within a hospital to another unit with a different provider number in the same hospital. For purposes of this part, "provider number" means a number issued by the department to a provider who has signed a provider agreement under part 9505.0195.

9505.0520 INPATIENT ADMISSION CERTIFICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Exclusions from admission certification or prior admission certification.** Admission for inpatient hospital services under items A ~~and B~~ to C shall be excluded from the requirement in subpart 1.

A. Admission certification is not required before an emergency admission may occur without prior admission certification and shall be subject to subpart 4, item B.

B. Admission certification is not required for delivery of a newborn or a stillbirth, inpatient dental procedures, or inpatient hospital services for which a recipient has been approved under Medicare. However, denial of an inpatient hospital service under Medicare ~~because the service is not medically necessary~~ shall also constitute sufficient grounds for denying payment admission certification for the service under medical assistance. The admission of a pregnant woman that does not result in the delivery of a newborn or a stillbirth within 24 hours of her admission shall be subject to retroactive admission certification.

C. Admission of a recipient who has been approved by the county for inpatient hospital services for chemical dependency as specified in parts 9530.6600 to 9530.6655 may occur without admission certification, provided that the inpatient hospital chemical dependency services to the recipient during the recipient's stay in the hospital are not to be billed to medical assistance under parts 9500.1090 to 9500.1155.

Subp. 3. **Admitting physician responsibilities.** The admitting physician who seeks medical assistance or general assistance medical care program payment for an inpatient hospital service to be provided to a recipient ~~for a purpose other than chemical dependency treatment~~ shall:

A. [Unchanged.]

B. Request admission certification by contacting the medical review agent either by phone or in writing and providing the information in subitems (1) to ~~(8)~~ (9):

(1) to (5) [Unchanged.]

(6) whether the admission is a readmission or a transfer;

(7) [Unchanged.]

(8) information from the plan of care and the reason for admission as necessary for the medical review agent to determine if admission is medically necessary or the procedure requiring a second surgical opinion is medically appropriate; or

(9) when applicable, information needed to prove that a procedure requiring a second surgical opinion meets the criteria for exemption from the requirement.

C. Provide the following information when applicable:

(1) surgeon's name and medical assistance provider number;

(2) expected date of surgery; ~~and~~

(3) affirmation that ~~a second surgical opinion and~~ prior authorization have been received;

(4) affirmation that a procedure requiring a second surgical opinion that was denied by the medical review agent has been approved by a third physician; and

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

(5) when requested by the medical review agent, documentation that the procedure requiring a second surgical opinion meets the criteria for exemption from the requirement.

D. Inform the hospital of the certification number.

E. Provide the hospital documentation necessary for the verification required in subpart 4, item D.

~~F. For purposes of billing, enter the certification number on, and attach a copy of a necessary, any required prior authorization form number, and a second or third surgical opinion to an authorization number on invoices submitted to the department for payment.~~

Subp. 4. **Hospital responsibilities.** A hospital that seeks medical assistance or general assistance medical care program payment for inpatient hospital services provided to a recipient shall:

A. Obtain the certification number and the authorization number, if required under parts 9505.5000 to 9505.5105, from the admitting physician ~~or, for an admission for chemical dependency treatment, from the person who conducted the assessment of the recipient for chemical dependency treatment as specified in parts 9530.6600 to 9530.6655.~~

B. In an emergency admission Within 48 hours after the occurrence of an event described in subitem (1) or (2), and within 72 hours of the event described in subitem (3), excluding weekends and holidays, inform, by phone, the medical review agent of the emergency admission event and provide the information required in subpart 3, items B and C, if applicable, ~~within 48 hours of the emergency admission exclusive of weekends and holidays.~~

(1) An admission that is an emergency admission as specified in subpart 2.

(2) A surgical procedure requiring a second surgical opinion that meets the requirements of part 9505.5040, item B or C, for exemption from the second opinion.

(3) The admission of a pregnant woman that does not result in the delivery of a newborn or a stillbirth within 24 hours of her admission, as specified in subpart 2, item B.

For purposes of this subitem, the time limit for notifying the medical review agent is calculated beginning with the time of the admission of the pregnant woman.

If the hospital fails to notify the medical review agent within ~~48 hours excluding weekends and holidays~~ the required time limit, the hospital shall submit, at its own expense, a copy of the complete medical record to the medical review agent within 30 days after the recipient's discharge. Failure to submit the record within the 30 days shall result in denial of the certification number.

C. For billing purposes, enter the certification number and any required prior authorization number and second surgical opinion authorization number on all invoices submitted to the department for payment.

D. Within 20 days, exclusive of weekends and holidays, of the date of a written request by the medical review agent, obtain and submit to the medical review agent an admitting physician's verification that a procedure requiring a second surgical opinion has been approved by a third physician. The verification must include at least the signed form required by the department to approve a procedure requiring a second surgical opinion.

Subp. 5. [Unchanged.]

Subp. 6. **Medical review agent responsibilities.** The medical review agent shall:

A. [Unchanged.]

B. determine within 24 hours of receipt of the information, exclusive of weekends and holidays, whether admission is medically necessary, whether a surgical procedure requires a second surgical opinion or is exempt from the requirement, and whether a procedure requiring a second surgical opinion meets the criteria of appropriateness established in part 9505.0540 or requires the approval of a third physician;

C. [Unchanged.]

D. mail a written notice by certified letter of the admission certification determination to the admitting physician and the hospital, and a written notice to the recipient within five days of the determination, exclusive of weekends and holidays;

E. determine if admission of a retroactively eligible recipient was medically necessary and if the surgical procedure requiring a second opinion was medically appropriate;

F. conduct a concurrent, continued stay, or retrospective review of a recipient's medical record as specified in subpart 10;

G. provide for a reconsideration of a denial or withdrawal of admission certification, and of an authorization number denied or withdrawn under subpart 8, item C;

~~G.~~ H. recruit and coordinate the work of the physician advisers;

~~H.~~ I. notify the admitting physician and the person responsible for the hospital's utilization review, by phone, of a reconsideration decision within 24 hours of the decision, exclusive of weekends and holidays;

~~I.~~ J. mail a written notice by certified letter of the reconsideration decision to the admitting physician, the person responsible for the hospital's utilization review, and the department within ten days of the determination, exclusive of weekends and holidays;

~~J.~~ K. provide for consideration of a request for retroactive admission certification; ~~and~~

~~K.~~ issue a certification number for a recipient whose condition requires chemical dependency treatment in a hospital as indicated in an assessment made according to parts 9530.6600 to 9530.6655

L. validate the diagnostic category; and

M. perform other duties as specified in the contract between the medical review agent and the department.

Subp. 7. [Unchanged.]

Subp. 8. **Procedure for admission certification or authorization of surgical procedure requiring a second surgical opinion.** The procedure for admission certification or authorization of a surgical procedure requiring a second surgical opinion shall be as in items A to H.

A. Upon receipt of the information requested in subpart 3, items B and C, if applicable, the clinical evaluator shall review the information and determine whether the admission is medically necessary or whether a procedure requiring a second surgical opinion is appropriate or meets the criteria for exemption from the requirement.

B. If the clinical evaluator determines ~~the admission is medically necessary that one of the conditions in item A exists,~~ the medical review agent shall issue a certification or authorization number.

C. If the clinical evaluator determines that a procedure requiring a second surgical opinion does not meet the criteria for exemption under part 9505.5040, except items B, C, and F, the medical review agent shall notify the admitting physician by phone and mail the admitting physician and the recipient a written notice within 20 days of the determination. If the exemption is denied, the recipient who wants the surgery may obtain a second or third surgical opinion. Exemptions from the second surgical opinion under part 9505.5040, items B and C, shall be subject to subpart 4, item B. Exemptions from the second surgical opinion under part 9505.5040, item F, shall be subject to part 9505.5096, subpart 4. If the medical review agent determines that the procedure requiring a second surgical opinion was not entitled to an exemption or that the surgical procedure was not medically appropriate under part 9505.5040, items B, C, and F, the medical review agent shall not issue or shall withdraw the authorization number and notify the admitting physician and the hospital of denial of the authorization number. The notice shall be in writing, mailed by certified letter within 20 days of the determination, and shall state that the admitting physician or the hospital may request reconsideration of the denial under subpart 9 or may directly appeal the denial under Minnesota Statutes, chapter 14.

~~D.~~ If the clinical evaluator is unable to determine that the admission is medically necessary, or that a procedure requiring a second surgical opinion is appropriate, the evaluator shall contact a physician adviser.

~~D.~~ ~~E.~~ If the physician adviser determines that the admission is medically necessary, or that a procedure requiring a second surgical opinion is appropriate, the medical review agent shall issue a certification or authorization number.

~~E.~~ ~~F.~~ If the physician adviser is unable to determine that the admission is medically necessary, or that a procedure requiring a second surgical opinion is appropriate, the physician adviser shall notify the clinical evaluator by phone, the clinical evaluator shall notify the admitting physician by phone, and the admitting physician may request a second physician adviser's opinion, except in the case of a procedure requiring a second surgical opinion. In this case, the medical review agent shall notify the admitting physician that the recipient may obtain the opinion of a third physician as provided in parts 9505.5050 to 9505.5105.

~~F.~~ G. If the admitting physician does not request a second physician adviser's opinion, the medical review agent shall deny the admission certification, shall not issue a certification number, and shall notify the admitting physician, the hospital, and the recipient of the denial. The notice to the recipient shall be in writing and shall state the reasons for the denial and the recipient's right to appeal under Minnesota Statutes, section 256.045, and part 9505.0522. The notices to the admitting physician and the hospital shall be in writing, shall state the reasons for the denial, and shall state that the admitting physician or the hospital may request reconsideration of the denial under subpart 9 or may directly appeal the denial under Minnesota Statutes, chapter 14.

If the admitting physician requests a second physician adviser's opinion about an admission, the clinical evaluator shall contact a second physician adviser.

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

~~G-~~ H. If the second physician adviser determines that the admission is medically necessary, the medical review agent shall issue a certification number.

~~H-~~ I. If the second physician adviser is unable to determine that the admission is medically necessary, the medical review agent shall deny the admission certification ~~and~~, shall not issue a certification number, and shall notify the admitting physician, the hospital, and the recipient of the denial. The notice to the recipient shall be in writing and shall state the reasons for the denial and the recipient's right to appeal under *Minnesota Statutes*, section 256.045, and part 9505.0522. The notices to the admitting physician and the hospital shall be in writing and shall state the reasons for the denial and shall state that the admitting physician or the hospital may request reconsideration of the denial under subpart 9 or may directly appeal the denial under *Minnesota Statutes*, chapter 14.

Subp. 9. **Reconsideration.** The admitting physician or the hospital may request reconsideration of a decision to deny or withdraw an admission certification or an authorization number under subpart 8, item C. The admitting physician or the hospital shall submit the request in writing to the medical review agent together with the recipient's medical record and any additional information within 30 days of the date of receipt of the certified letter denying or withdrawing admission certification or the authorization number. Upon receipt of the request, the medical record, and any additional information, the medical review agent shall appoint at least three physician advisers, none of whom shall have been involved previously in the procedure for the recipient's admission certification or authorization number, to hear the reconsideration. The reconsideration may be conducted by means of a telephone conference call. ~~The admitting physician or the hospital may submit additional facts at their own expense to support the request for admission certification.~~ The physician advisers may seek additional facts and medical advice as necessary to decide whether the admission is medically necessary or whether the surgical procedure requiring a second surgical opinion meets the criteria of exemption or is medically appropriate under part 9505.5040, items B, C, and F. The reconsideration shall be completed within ~~30~~ 45 days of the receipt of the request information necessary to complete the reconsideration. The outcome of the reconsideration shall be the one chosen by the majority of the physician advisers appointed to consider the request. The admitting physician or the hospital may appeal the determination of the physician advisers according to the contested case provisions of *Minnesota Statutes*, chapter 14, by filing a written notice of appeal with the commissioner within ~~20~~ 30 days of the date of receipt of the notice of the determination certified letter upholding the denial or withdrawal of admission certification or authorization number. However, an admitting physician or hospital that does not request reconsideration or appeal under the contested case procedures of *Minnesota Statutes*, chapter 14, within 30 days after the denial or withdrawal of admission certification or authorization number is not entitled to an appeal under *Minnesota Statutes*, chapter 14.

Subp. 9a. **Retention or withdrawal of certification number.** When a hospital discharges a recipient who is subsequently readmitted to the same or a different hospital or transfers a recipient to another hospital, the readmission or transfer is subject to the procedures in part 9505.0540, subparts 3 to 6. The hospital or admitting physician who disagrees with the medical review agent's determination under this subpart may request reconsideration as specified in subpart 9.

Subp. 10. **Medical record review and determination.** As specified in the contract between the department and the medical review agent, upon the request of the department, or upon the initiative of the medical review agent, the medical review agent shall be authorized to conduct a concurrent, continued stay, or retrospective review of a recipient's medical record to validate the diagnostic category and to determine whether the admission was medically necessary, whether the inpatient hospital services were medically necessary, whether a continued stay will be medically necessary, or whether all medically necessary services were provided, or whether a surgical procedure requiring a second opinion was medically appropriate. The procedure for concurrent, continued stay, and retrospective reviews shall be as in items A to ~~D~~ G.

A. to C. [Unchanged.]

D. If a physician adviser determines that the recipient's admission was not medically necessary, that the recipient's continued stay will not be medically necessary, or that all medically necessary services were not provided, the medical review agent shall withdraw the previously issued certification number and shall notify the admitting physician and hospital by telephone within 24 hours of the determination and by written notice by certified letter mailed within 24 hours five days, exclusive of weekends and holidays, of the determination. The notice shall state the right of the admitting physician and hospital to request a reconsideration or appeal under subpart 9.

E. If the diagnostic category validation shows that the diagnostic category was inaccurately assigned, the department shall adjust the reimbursement as applicable to the diagnostic category that is accurate for the recipient's condition.

F. If the medical review agent conducting a retrospective review finds the recipient's medical record is inadequate to justify that a surgical procedure requiring a second opinion is medically appropriate, or that an exemption under part 9505.5040 was appropriate, the medical review agent may request a hospital to submit, at the hospital's expense, documentation substantiating the opinion of the third physician that the surgical procedure was medically appropriate, or that the exemption under part 9505.5040 was appropriate. The hospital shall submit the documentation within 20 days, exclusive of weekends and holidays, of the date of the notice requesting the documentation.

G. If the clinical evaluator is unable to determine from the documentation in the recipient's medical records the reasons for the recipient's discharge and readmission, the clinical evaluator shall submit the medical records of the recipient's discharge and readmission to a physician adviser. The physician adviser shall review the records and determine the nature of the discharge and readmission according to the criteria in part 9505.0540, subparts 3 to 5, and if the determination of the medical review agent is different from that of the admitting physician or hospital, then the medical review agent shall notify the admitting physician or hospital by certified letter mailed within five days, exclusive of weekends and holidays, of the determination. The notice shall state the right of the admitting physician and hospital to request a reconsideration under subpart 9.

Subp. 11. Consequences of withdrawal of admission certification or authorization number; general. The department or the medical review agent shall withdraw the certification number or authorization number and may take action as specified in items A to F if the medical review agent determines any of the following: (1) that the admission was not medically necessary or; (2) that all medically necessary inpatient hospital services were not provided or; (3) that some or all of the inpatient hospital services were not medically necessary; the department shall withdraw the certification number and may take action as specified in items A to E; (4) that within 20 days, exclusive of weekends and holidays, the hospital has failed to comply with the department's or the medical review agent's request to submit the medical record or other required information to support that the admission was medically necessary, that all medically necessary inpatient hospital services were provided, or that some or all of the inpatient hospital services provided were medically necessary; or, that the information submitted by the hospital was inadequate to support that the admission was medically necessary, that all medically necessary inpatient hospital services were provided, or that some or all of the inpatient hospital services provided were medically necessary; (5) that documentation submitted by the hospital at the request of the department or the medical review agent does not support that the surgical procedure was medically appropriate, or that the exemption under part 9505.5040 was appropriate; or (6) that within 20 days, exclusive of weekends and holidays, the hospital has failed to comply with the medical review agent's request to submit documentation to substantiate the opinion of a third physician that the surgical procedure was medically appropriate, or that the exemption under part 9505.5040 was appropriate.

A. For hospitals receiving payments on a per admission basis under parts 9500.1090 to 9500.1155, if the admission was not medically necessary or the medical record does not adequately document that the admission was medically necessary, the entire payment shall be debited for an admission that was not medically necessary. If the admission was medically necessary but some or all of the inpatient hospital services were not medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150 denied or recovered as provided in subpart 15. If the hospital failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

B. For hospitals receiving per diem payment, no payment shall be made if the admission was not medically necessary. If the stay or a portion of the stay was not medically necessary, no payment shall be made for the portion of the stay that was not medically necessary. For hospitals receiving payments under parts 9500.1090 to 9500.1155, if the admission was medically necessary but some or all of the additional inpatient hospital services were not or will not be medically necessary, or the medical record does not adequately document that the additional inpatient hospital services were necessary, payment for the additional services shall be denied or recovered as provided in subpart 15. If the hospital failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

C. If the medical review agent determines that additional inpatient hospital services will not be medically necessary, the medical review agent shall notify the hospital, admitting physician, and the recipient or the person designated by the recipient in the hospital record that no payment will be made for additional hospital services.

~~D.~~ If the admission was not medically necessary or the medical record does not adequately document that the admission was medically necessary, the department may seek to recover payments made to physicians payment shall be denied or recovered from the admitting physician and other vendors of inpatient hospital services as provided in subpart 15. If the admitting physician and other vendors failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

D. If additional inpatient hospital services were not or will not be medically necessary, or the medical record did not adequately document that the additional inpatient hospital services were medically necessary, payment for the additional services shall be denied or recovered from the admitting physician and other vendors of inpatient hospital services as provided in subpart 15. If the admission was medically necessary but some or all of the inpatient hospital services were not medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150. If the admitting physician

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

and vendors failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

E. If an inpatient hospital service is not medically necessary, payment for a service not medically necessary shall be denied to the vendor of the service except as provided in items A and B. If within 20 days, exclusive of weekends and holidays, the hospital failed to comply with the department's or the medical review agent's request to submit the medical record or other required information to support (1) that the admission was medically necessary; (2) that all medically necessary inpatient hospital services were provided; or (3) that some or all of the inpatient hospital services provided were medically necessary; or, if the information submitted by the hospital was inadequate to support clauses (1) to (3) of this item, all or part of the payment shall be denied or recovered as provided in items A to D.

F. If the documentation does not support that the surgical procedure was medically appropriate or that the exemption under part 9505.5040 was appropriate, or if the hospital failed to comply with the medical review agent's request to submit documentation to substantiate the opinion of the third physician that the surgical procedure was medically appropriate or that the exemption under part 9505.5040 was appropriate, payment for the surgical procedure shall be denied or recovered from the hospital, admitting physician, or other vendors as provided in subpart 15.

Subp. 12. **Appeal Reconsideration of denial or withdrawal of admission certification or authorization number.** The denial or withdrawal of admission certification or authorization number may be appealed to the medical review agent through the reconsideration process in reconsidered under subpart 9.

Subp. 13. and 14. [Unchanged.]

Subp. 15. **Recovery of payment after withdrawal of admission certification or denial of authorization of second surgical procedure.** An admitting physician or hospital that receives a notice of withdrawal of a certification number or authorization number and that does not request reconsideration under subpart 9 or appeal under *Minnesota Statutes*, chapter 14, shall be subject to recovery of payment without further notice or right to appeal. If a reconsideration results in the denial or withdrawal of a certification number or authorization number, and the admitting physician or hospital does not appeal within the time permitted pursuant to other remedies, the department shall recover payment without further notice to the admitting physician and hospital. If an appeal results in the denial or withdrawal of a certification number or authorization number, the department shall recover the payment without further notice to the admitting physician and the hospital.

Recovery of overpayments may be made by:

- A. adjusting the provider's invoice to the difference between the billed amount and the correct amount;
- B. canceling the incorrect invoice and directing the provider to submit a correct invoice;
- C. withholding or offsetting the payment due the provider for other medical assistance or general assistance medical care services; or
- D. using any other remedy available under state or federal law or rules.

9505.0521 PROHIBITION OF RECOVERY FROM RECIPIENT.

The provider may not seek payment from the recipient for inpatient hospital services provided under parts 9505.0500 to 9505.0540 if the certification or authorization number is not issued or is withdrawn.

9505.0522 RECIPIENT'S RIGHT TO APPEAL.

A recipient who is denied inpatient hospital services because of the medical review agent's determination that the services are not medically necessary or who is denied a surgical procedure requiring a second surgical opinion because of the medical review agent's determination that the surgical procedure is not appropriate, may appeal the medical review agent's determination under *Minnesota Statutes*, section 256.045.

9505.0530 INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

The most recent edition of the Appropriateness Evaluation Protocol of the National Institutes of Health is incorporated by reference. The book is available at the Health Data Institute, 7 Wells Avenue, Newton 20 Maguire Road, Lexington, Massachusetts, 02159 02173, and it is also available through the Minitex interlibrary loan system. The book is subject to change.

The Criteria for Inpatient Psychiatric Treatment, 1981 edition, published by Blue Cross and Blue Shield of Minnesota are incorporated by reference. The criteria are available at Blue Cross and Blue Shield of Minnesota, P.O. Box 64560, Saint Paul, Minnesota 55164, and at the state law library, Ford Building, Saint Paul, Minnesota 55155. The criteria are not subject to frequent change.

9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY OR APPROPRIATENESS.

Subpart 1. **Determination for admission for purpose other than chemical dependency treatment.** The medical review agent

shall follow the Appropriateness Evaluation Protocol and Criteria for Inpatient Psychiatric Treatment of Blue Cross and Blue Shield of Minnesota in determining whether a recipient's admission is medically necessary, whether the inpatient hospital services provided to the recipient were medically necessary, whether the recipient's continued stay will be medically necessary, and whether all medically necessary inpatient hospital services were provided to the recipient.

In determining whether a surgical procedure requiring a second surgical opinion is medically appropriate, the medical review agent shall follow the criteria published in the State Register pursuant to Minnesota Statutes, section 256B.02, subdivision 8, paragraph 21.

Subp. 2. **Determination for admission for chemical dependency treatment.** The assessment of a recipient's need for chemical dependency treatment in a hospital shall be made according to parts 9530.6600 to 9530.6655. ~~The person who conducted the assessment shall contact the medical review agent and request a certification number. If the person who conducted the assessment reports that the recipient meets the criteria for chemical dependency treatment in a hospital, the medical review agent shall issue a certification number.~~

Subp. 3. **Readmission considered as a second admission.** The medical review agent shall issue a certification number for a readmission that meets the criteria for medical necessity specified in subpart 1 whether the admitting and readmitting hospitals are the same or different. The medical record of the admission must state why the recipient was discharged from the hospital and what the recipient's medical status was upon discharge, and the medical record of the readmission must state why the recipient is being readmitted and what the recipient's medical status is at readmission. Both the admission and the readmission shall be subject to a retrospective review as provided in part 9505.0520, subpart 10. If the reason for the discharge and the reason for the readmission meet one set of circumstances specified in items A to D, the medical review agent shall determine that both the admission and the readmission shall retain the certification number subject to the hospitals' and admitting physicians' compliance with all requirements of parts 9505.0500 to 9505.0540.

A. The readmission results from the recipient leaving the hospital against medical advice.

B. The readmission results from the recipient being noncompliant with medical advice that is recorded on the recipient's medical record as being given to the recipient at the admitting hospital. For purposes of this part, "recipient being noncompliant with medical advice" means that the recipient, fully informed of his or her medical condition, and fully understanding the need for the treatment and the follow-up discharge instructions, if any, refuses to adhere to the treatment or to follow the discharge instructions.

C. The readmission results from a new episode of the same diagnosis of an episodic illness or condition.

D. The readmission results from the fact that the recipient's discharge from the admitting hospital and readmission are medically necessary according to prevailing medical standards, practice, and usage.

Subp. 4. **Readmission considered as continuous with admission.** The medical review agent shall determine that a readmission of a recipient is continuous with the recipient's admission whether the admitting and readmitting hospitals are the same or different if the circumstances requiring the recipient's readmission meet one set of the circumstances specified in items A to C. The medical review agent shall issue a certification number if the readmission meets the criteria for medical necessity specified in subpart 1. The medical record of the admission must state why the recipient was discharged from the hospital and what the recipient's medical status was upon discharge, and the medical record of the readmission must state why the recipient is being readmitted and what the recipient's medical status is at readmission. Both the admission and the readmission shall be subject to a retrospective review as provided in part 9505.0520, subpart 10. Upon completing the retrospective review and determining whether the readmission and admission are consistent with item A, B, or C, the medical review agent shall take the action specified in the item that applies. Medical assistance payment for the inpatient hospital services retaining the certification number after the determination resulting from the retrospective review shall be paid according to parts 9500.1090 to 9500.1155 for the diagnostic category assigned to the recipient's principal diagnosis of the admission and readmission. In each circumstance, retention of the certification number shall be subject to the hospital's and admitting physician's compliance with all requirements of parts 9505.0500 to 9505.0540.

A. The recipient was discharged from the admitting hospital without receiving the procedure or treatment of the condition diagnosed during the admission because of the hospital's or physician's preference or because of a scheduling conflict. If the admitting and readmitting hospitals are the same, the medical review agent shall withdraw the certification number of the readmission and determine the admission eligible to retain the certification number. If the admitting and readmitting hospitals are not the same, the medical review agent shall apply the requirements under subpart 5, item C, regarding readmission eligible for a transfer payment.

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

Proposed Rules

B. The recipient's discharge was not appropriate according to prevailing medical standards, practice, and usage. If the admitting and readmitting hospitals are the same, the medical review agent shall determine the admission eligible to retain the certification number and withdraw the certification number of the readmission. If the admitting and readmitting hospitals are different, the medical review agent shall withdraw the certification number of the admission and shall determine the readmission eligible to retain a certification number.

C. The recipient's discharge and readmission to the same hospital results from the preference of the recipient or the recipient's family that the recipient's treatment be delayed, that the recipient be discharged without receiving the necessary procedure or treatment, and that the recipient be readmitted for the necessary procedure or treatment. If the admitting and readmitting hospitals are the same, the medical review agent shall determine the admission eligible to retain the certification number and withdraw the certification number of the readmission. If the admitting and readmitting hospitals are not the same, the medical review agent shall apply the requirements under subpart 5, item A, regarding readmission eligible for a transfer payment. For purposes of this part, "preference of the recipient or the recipient's family" means that the recipient or the recipient's family makes a choice to delay or change the location of inpatient hospital services, and the choice is compatible with prevailing medical standards, practices, and usage.

Subp. 5. Readmission eligible for transfer payment. The medical review agent shall issue a certification number for a readmission that is eligible for a transfer payment if the readmission meets the criteria for medical necessity specified in subpart 1 and a set of circumstances in item A, B, or C. The medical record of the admission must state why the recipient was discharged from the hospital and what the recipient's medical status was upon discharge, and the medical record of the readmission must state why the recipient is being readmitted and what the recipient's medical status is at readmission. The medical review agent shall conduct a retrospective review of the medical records, determine whether the readmission is consistent with the circumstances in item A, B, or C, and take the action specified in the item. Retention of the certification number by the hospital shall also be subject to the admitting physician's and hospital's compliance with all requirements of parts 9505.0500 to 9505.0540.

A. The readmission results from the preference of the recipient or the recipient's family that the recipient be discharged from the admitting hospital without receiving the necessary procedure or treatment and that the recipient be readmitted to a different hospital to obtain the necessary procedure or treatment. In this case, both hospitals shall retain their certification numbers subject to the hospitals' and admitting physicians' compliance with all requirements of parts 9505.0500 to 9505.0540, and medical assistance payment to each hospital shall be made according to the transfer payment established under part 9500.1130, subpart 7, item A, for the inpatient hospital services necessary for the recipient's diagnosis and treatment.

B. The readmission results from a referral from one hospital to a different hospital because the recipient's medically necessary treatment was outside the scope of the first hospital's available services. In this case, both hospitals shall retain their certification numbers, and medical assistance payment to each hospital shall be made according to the transfer payment established under part 9500.1130, subpart 7, item A, for the inpatient hospital services necessary for the recipient's diagnosis and treatment. If, however, the admission to the first hospital is not due to an emergency and the first hospital knew or had reason to know at the time of admission that the inpatient hospital services that were medically necessary for the recipient's treatment were outside the scope of the hospital's available services and the readmission to another hospital resulted because of the recipient's need for those services, the first hospital's certification number will be withdrawn.

C. The readmission results from a physician's or hospital's scheduling conflict at the admitting hospital. The medical review agent shall determine both hospitals eligible to retain their certification numbers. In this case, medical assistance payment to each hospital shall be made according to the transfer payment established under part 9500.1130, subpart 7, item A, for the inpatient hospital services necessary for the recipient's diagnosis and treatment.

Subp. 6. Physician adviser's review of readmission. If the clinical evaluator is unable to determine from the documentation in the recipient's medical records the reasons for the recipient's discharge and readmission, the records shall be reviewed by the physician adviser, according to the procedure in part 9505.0520, subpart 10, item G.

Board of Psychology

Proposed Permanent Rules Relating to Licensing and Fees

Notice of Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Psychology (hereinafter "Board") will hold a public hearing in the above-captioned matter, pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986), in the upper level banquet room of the Fred Babcock VFW Post #5555, 710 Lakeshore Drive, Richfield, Minnesota 55423, on November 4, 1988, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the

Proposed Rules

hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7645. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing to any new information submitted within three business days after the submission period ends. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1987). Questions about procedure may be directed to the administrative law judge.

If adopted, the rule amendments would amend the requirements for licensure, including education and renewal requirements, amend the rules of conduct, and otherwise simplify and clarify the existing rules. The proposed rule amendments are attached hereto and will be published in the *State Register* issue on October 3, 1988. Additional free copies of the proposed rule amendments may be obtained from the Board by writing or telephoning Lois E. Mizuno, Executive Director, Minnesota Board of Psychology, Suite 101, 2700 University Avenue West, St. Paul, Minnesota 55114, telephone: (612) 642-0587.

The statutory authority of the Board to adopt the proposed amendments is contained in *Minnesota Statutes* §§ 148.90, subd. 2(4), 148.98, and 214.06, subd. 2 (1986).

The proposed rule amendments may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rule amendments are therefore advised to participate in the process.

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

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any 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 traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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

Notice is hereby given that a statement of need and reasonableness is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rule amendments are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rule amendments with the Secretary of State.

Promulgation of the proposed rule amendments will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1986). Also, it is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1986) regarding small business considerations in rulemaking.

Dated: September 13, 1988

Lois E. Mizuno
Executive Director

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

Rules as Proposed

7200.0100 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 3a. Client. "Client" means an individual or entity who is the recipient of any of the psychological services described in *Minnesota Statutes*, section 148.89, subdivision 1.

Subp. 4. [Unchanged.]

Subp. 5. **Informed written consent.** "Informed written consent" means a written statement signed by the ~~person~~ individual making the statement ~~which that~~ authorizes a psychologist to engage in activity which directly affects the ~~person~~ individual signing the statement. The statement must include a declaration that the ~~person~~ individual signing the statement has been told of and understands the purpose of the authorized activity.

Subp. 5a. Dual relationship. "Dual relationship" means a relationship between a psychologist and a client that is both professional and one or more of the following: cohabitational, emotional, familial, or supervisory, or that includes significant financial or social involvement.

Subp. 5b. Familial. "Familial" means of, involving, related to, or common to a family member as defined in subpart 5c.

Subp. 5c. Family member or member of the family. "Family member" or "member of the family" means a spouse, parent, offspring, or sibling, or an individual who serves in the role of one of the foregoing.

Subp. 5d. Field of practice. "Field of practice" means a broad area within the profession of psychology that is commonly recognized by psychologists as requiring skills not necessarily required for practice in other broad areas. Examples of field of practice are clinical, counseling, educational, industrial/organizational, and school psychology.

Subp. 6. Licensee of the board or licensee. "Licensee of the board" or "licensee" means either a licensed psychologist or a licensed consulting psychologist.

Subp. 7. [Unchanged.]

Subp. 8. **Professional relationship.** "Professional relationship" means the ~~association~~ relationship between a psychologist and a ~~person or entity which exists when the psychologist performs for that person or entity any of the functions described in~~ *Minnesota Statutes*, section 148.89, subdivision 1 client.

Subp. 9. [Unchanged.]

Subp. 10. **Supervision.** "Supervision" means taking full professional responsibility for training, work experience, and performance in the practice of psychology of a supervisee, including planning for and evaluation of the work product of the supervisee, ~~and including face-to-face contact between the supervisor and supervisees in at least ten separate hourly sessions per quarter.~~

Subp. 11. to 13. [Unchanged.]

7200.0400 ADMISSION TO EXAMINATION.

Before July 1, 1990, an applicant who has met the requirements of parts 7200.0300, 7200.1300, subparts 1 to 3, 7200.1500, and 7200.1600 shall be admitted to the first regularly scheduled ~~objective part of the examination~~ national standardized test specified in part 7200.3000, subpart 1, item A, occurring 40 days or more after the applicant has demonstrated that the requirements have been met the requirements of part 7200.0300, unless admission is denied under part 7200.0500. After June 30, 1990, an applicant who has met the requirements of parts 7200.0300, 7200.1300, subparts 1, 2, and 4, and 7200.1410 to 7200.1600, shall be admitted to the first regularly scheduled national standardized test occurring 60 days or more after the applicant has demonstrated that the requirements have been met.

7200.0500 DENIAL OF ADMISSION TO EXAMINATION.

Admission to examination shall be denied to An applicant who has ~~not met~~ failed to meet the education requirements in parts 7200.1300 to 7200.1600. An applicant who is denied admission to examination shall be denied admission to the objective part of the examination and informed in writing of the denial and the reasons for it. An application submitted after denial is a new application which must be accompanied by the current examination application fee.

7200.0600 REQUIREMENTS FOR LICENSURE.

To be eligible for licensure ~~the~~ an applicant must:

A. meet the following requirements in addition to those in part 7200.0300;

A. B. file with the board a notarized application for licensure, which includes an affirmation that the statements made in the

application are true and correct to the best knowledge and belief of the applicant and which is accompanied by the current licensure application fee;

~~B- C.~~ have completed two years of post-degree supervised employment as stated in parts 7200.0800 and 7200.2000 to 7200.2600;

~~C- D.~~ provide evidence of having met the supervision requirements of parts 7200.0800 and 7200.2000 to 7200.2600 by means of a signed, notarized statement from the supervisor of each employment that includes the time period during which the applicant was supervised, the number of hours of face to face supervision per week, and verification that the supervision meets the requirements of parts 7200.0800 and 7200.2000 to 7200.2600;

~~E.~~ have performed satisfactorily on ~~both~~ all parts of the examination listed in part 7200.3000;

~~D- F.~~ provide evidence of having met the requirements of *Minnesota Statutes*, section 148.91, subdivision 4, clause (2) and of not having engaged in conduct prohibited by parts 7200.4500 to ~~7200.5500~~ 7200.5700, by means of endorsements from at least two ~~people~~ individuals with the qualifications stated in part 7200.0900; and

~~E- G.~~ for an application for licensure as a licensed psychologist, file an agreement to collaborate signed by a licensed consulting psychologist.

7200.0800 SUPERVISED EMPLOYMENT, AREAS OF COMPETENCE.

The application for licensure ~~shall~~ must include for each post-degree supervised employment the setting, nature, and extent ~~of the supervised employment~~, the time period involved, the number of hours per week engaged in professional duties, the number of hours of face to face supervision per week, the name, address, and qualifications of ~~each the~~ supervisor, and the areas of competence in which proficiency has been gained. The application may include areas of competence in which proficiency has been gained through experience, such as internships or practica, which is not counted toward the employment requirement of *Minnesota Statutes*, section 148.91, subdivisions 4 and 5.

7200.0900 REQUIREMENTS FOR ENDORSEMENT.

~~To qualify as an endorser a person listed on the application for licensure~~ For an endorsement to meet the requirements of part 7200.0600, item F, the endorser must be a licensee of the board, ~~a person an individual~~ a person an individual who is licensed to practice psychology by another state whose licensure standards are similar to the standards of this state, or ~~a person an individual~~ a person an individual whose education and experience meet the licensure standards of *Minnesota Statutes*, section 148.91 and parts 7200.0100 to 7200.6000. ~~An employee of an applicant may not be an endorser of that applicant. A person~~ In addition, the endorser cannot be an employee or family member of the applicant, a current member of the board, or an individual who has not observed the work of the applicant in the professional environment of the applicant ~~may not be an endorser of the applicant. A current member of the board may not be an endorser.~~

An applicant who has not received sufficient endorsements may submit the names of additional endorsers.

7200.1000 ADDING AREAS OF COMPETENCE.

At any time, a licensee may add an area of competence in which proficiency has been gained by submitting to the board a written statement of the area of competence ~~which is~~ The statement must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the licensee.

7200.1100 INQUIRIES REGARDING APPLICANTS.

The board may make inquiries when there is a question as to whether an applicant meets the requirement of part 7200.0600, item ~~D~~ E.

7200.1200 DENIAL OF LICENSURE.

An applicant who fails to meet all the requirements in ~~part~~ parts 7200.0300 and 7200.0600 shall be denied licensure. ~~An applicant who is denied licensure shall be~~ and informed in writing of the denial and the reason for it. An application submitted following denial is a new application which must be accompanied by the current licensure application fee.

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

7200.1300 EDUCATIONAL REQUIREMENT FOR LICENSED CONSULTING PSYCHOLOGISTS LICENSURE.

Subpart 1. Licensed consulting psychologist. The educational requirement for licensure as a licensed consulting psychologist is a ~~doctorate~~ doctoral degree with a major in psychology obtained in an institution accredited by a regional accrediting association to grant a ~~doctorate with a major in psychology~~ doctoral degrees.

Subp. 2. Licensed psychologist. The educational requirement for licensure as a licensed psychologist is a master of arts or science degree, including a master equivalent in a doctoral program, with a major in psychology obtained in an institution accredited by a regional accrediting association.

Subp. 3. Degrees earned before July 1, 1990. For both types of licensure based on degrees earned before July 1, 1990, the major must be:

A. offered through a department of psychology;

B. ~~be~~ a major in educational psychology, child psychology, counseling psychology, or industrial psychology; or

C. if the major is offered through an academic department or unit other than a department of psychology and its title is not listed in item B, the dissertation for the degree, or thesis if a degree requirement, must be psychological in topic and method according to the criteria in subitems (1) and (2), and the coursework leading to the degree must meet the criteria in subitem (3):

(1) The topic must fall within the list of psychological topics included in the table of contents of all editions of the Annual Review of Psychology, up to and including the ~~1984~~ 1988 edition, and must have the potential to directly impact upon the body of knowledge in the field of psychology.

(2) The method shall include at least one of the following: experimental manipulation of psychological variables; correlational or statistical method, using data collected by observations made by oneself or other persons; case study; creation of theory based on analysis of data obtained by oneself or other persons, including conceptual analysis; introspection; or psychohistory.

(3) ~~For a person seeking licensure on the basis of a doctorate earned before January 1, 1984, at least half of the number of credits completed for the degree, excluding dissertation credits, must have been successfully earned in graduate courses which are predominantly psychological in content. For any other person,~~ At least two-thirds of the number of credits completed for the degree, excluding dissertation or thesis credits, must have been successfully earned in graduate courses which are predominantly psychological in content. Credits for postdoctoral or post master course work earned within five years after receiving the ~~doctorate~~ degree may be used in part to meet this requirement.

Subp. 4. Degrees earned after June 30, 1990. For both types of licensure based on degrees earned after June 30, 1990, the major must meet the following requirements:

A. The program offering the major must be certified to the board by the dean of the graduate school of the institution to be an organized sequence of study.

B. The transcript of the applicant must indicate:

(1) A minimum of three graduate semester or four quarter credits of course work earned in each of the core areas listed in units (a) to (g), or demonstrated equivalency as provided in part 7200.1410:

(a) scientific methods;

(b) theories of measurement;

(c) biological bases of behavior;

(d) cognitive-affective bases of behavior;

(e) social bases of behavior;

(f) personality theory and human development; and

(g) professional ethics, standards of conduct, and issues of professional practice.

(2) A minimum of six additional graduate semester or eight quarter credits of course work earned in the application of psychological principles to problem identification. The course work must be in the areas of assessment, evaluation, or data collection, or any combination of these areas.

(3) A minimum of six additional graduate semester or eight quarter credits of course work in the application of psychological principles to problem solution. The course work must be in the areas of psychological intervention or data analysis or a combination of the two areas.

(4) A minimum of 2,000 hours for a doctoral degree or 1,500 hours for a master's degree of supervised practical field or laboratory experience in psychology related to the program of the applicant. The experience must meet the following criteria:

(a) Either the academic or the on-site supervisor must be a licensee of the board or an individual whose education and experience meet the standards imposed by Minnesota Statutes, section 148.91, and parts 7200.0100 to 7200.6000 and who is competent in the areas of practice in which supervision is provided.

(b) Reports by the trainee to consumers must be cosigned by a supervisor of the trainee or issued with a cover letter stating that the report has been reviewed and approved by the supervisor.

(c) The experience must include an average of at least two hours a week of regularly scheduled, formal face to face individual supervision. The supervisor who is a licensee or licensable must provide an average of one hour a week of supervision, but may delegate other training to appropriate agency staff members.

(d) The experience must be completed within 24 months in not more than three settings with at least 20 hours a week and no less than one-third of the total hours in each setting.

7200.1410 CORE AREA COURSE CREDIT EQUIVALENCE.

In lieu of credits earned in a core area listed in part 7200.1300, subpart 4, item B, an applicant may offer a certification to the board by the chair of the department that the applicant has passed an examination in that core area required for the master's degree or for admission to candidacy for a doctoral degree.

7200.1450 POST-DEGREE PROGRAM COMPLETION.

An applicant with a doctoral or master's degree earned after June 30, 1990, may correct deficiencies in the graduate program by completing no more than two core area courses and all or part of the practical field or laboratory experience, provided the deficiencies are corrected within one year after the date upon which the application for admission to examination is submitted.

7200.1600 DEGREES FROM FOREIGN INSTITUTIONS.

Subpart 1. Canadian institutions. A degree from a foreign Canadian institution regulated by the provincial government shall be accepted if the institution meets as meeting standards required for accreditation of a domestic institution.

Subp. 2. Other foreign institutions. When a degree from a foreign institution other than a Canadian institution is offered as meeting the requirements of part 7200.1300, at least two board members shall evaluate the institution granting the degree and recommend admission of the applicant to examination if:

A. the institution is chartered, authorized, or monitored by an agency of the central government of the country in which the institution is located;

B. the institution offers organized advanced degree programs leading to the equivalent of a master's or doctoral degree in psychology as specified in part 7200.1300, and the programs and courses are equivalent to programs and courses offered by regionally accredited domestic institutions as determined by a comparison of subject matter and number of hours necessary to receive credit for a program or course;

C. the program leading to the advanced degree must have been in existence for at least ten years and must be recognized by the central government of the country in which the institution is located as entitling the holder of the degree to practice psychology in that country; and

D. the major meets the requirements of part 7200.1300.

Subp. 3. Translation costs. The cost of translating any transcript or other documentation shall be borne by the applicant.

7200.1700 DEGREE MAJORS IN OTHER PROFESSIONS.

A degree major in any profession listed in Minnesota Statutes, section 148.97, subdivision 3, is not a major in psychology as defined in parts part 7200.1300, subparts 3, item C, and 7200.1400, item C 4. This provision applies to applications for admission to examination received after September 1, 1985.

7200.1800 BURDEN OF PROOF.

The burden of proof is on the applicant to demonstrate to the board that the degree program as evidenced by the transcript of the applicant meets the requirements of part 7200.1300.

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

7200.2000 PROFESSIONAL EMPLOYMENT REQUIREMENTS.

To meet the requirements for professional employment, the employment of the applicant, which may include voluntary service, must:

A. [Unchanged.]

B. Be under the supervision of a licensee of the board or a ~~person~~ an individual whose education and experience meet the standards for licensure imposed by *Minnesota Statutes*, section 148.91 and parts 7200.0100 to 7200.6000 ~~and~~, who is competent in the areas of practice in which supervision is provided, and who is not an employee or a member of the family of the applicant. The private practice of psychology for a fee in this state is not allowed ~~prior to~~ before licensure and shall not be credited, except that a licensed psychologist seeking licensure as a licensed consulting psychologist may engage in the private practice of psychology for a fee and need not require supervision. ~~The private practice of psychology in another state shall be credited only if engaged in after licensure by that state.~~

C. Include at least two hours of regularly scheduled, formal face to face supervision a week, one hour of which must be with the supervisor as defined in part 7200.0100, subpart 10. The remaining hour may be with other mental health professionals designated by the supervisor.

D. Be performed competently as judged by the supervisor.

7200.2600 CREDITING PART-TIME EMPLOYMENT.

Part-time employment shall be credited by the board on a prorated basis, if the part-time employment consists of at least ten hours per week for a period of 12 consecutive weeks at the same agency or facility, and if the employment includes at least one hour of face to face supervision a week, for employment of less than 25 hours per week, all with the supervisor as defined in part 7200.0100, subpart 10.

7200.3000 EXAMINATIONS.

Subpart 1. ~~Announcement of Three parts to examination.~~ The date of the written, objective part of the examination shall be announced by the board. The announcement shall establish time, place, the amount of the examination application fee, and the date by which documentation for the application for admission to examination must be completed to qualify for the announced examination.

Subp. 2. ~~Two parts to examination.~~ The examination is composed of ~~two~~ three parts:

A. ~~a written, objective part designed and scored by a professional examination service~~ national standardized test in psychology;

B. a written, objective part covering the rules of the Board of Psychology and *Minnesota Statutes*, sections 148.89 to 148.98, which may be taken after the education requirements for licensure have been met; and

C. an oral part in the applicant's field of practice conducted by members of the board or its duly authorized representatives after the application for licensure has been accepted by the board, provided that the employment required by *Minnesota Statutes*, section 148.91, will have been completed before the next board meeting.

Subp. 2. Announcement of examination. The date of the national standardized test shall be announced by the board. The announcement shall establish time, place, the amount of the examination application fee, and the date by which documentation for the application for admission to examination must be completed to qualify for the announced test.

Subp. 3. Notification to admitted applicants. The board shall notify in writing each applicant who has been admitted to ~~either~~ a part of the examination. The notice shall state the date ~~and~~, time, and place where the applicant is scheduled to be examined. An applicant who fails to appear at that time ~~shall~~ must submit a written request for deferment within 15 days after that date or forfeit the application fee unless within 15 days after that date the applicant submits a written request for a waiver.

Subp. 4. Satisfactory performance on examination. In order to qualify for licensure, the applicant must perform satisfactorily on ~~both~~ all parts of the examination.

An applicant who has performed satisfactorily ~~with respect to the level of licensure sought on the objective part of the examination~~ national standardized test, either in another state or for another level of licensure, shall be considered as having met the requirements of this rule with respect to ~~the objective~~ that part of the examination.

An applicant who has performed satisfactorily on the ~~oral part~~ other parts of the examination for another level of licensure shall be considered as having met the requirements of this rule with respect to ~~the oral part~~ those parts of the examination.

Subp. 5. [Unchanged.]

7200.3200 TERM OF LICENSE.

A license is valid for the period beginning with the date on which the license is originally granted or ~~reissued~~ granted after

suspension termination pursuant to part 7200.3600 or 7200.3700 and ending two years later on the last day of the month in which the license is granted or reissued. Thereafter the license is renewable for periods of two years, ending with the last day of the month in which the license is granted or reissued.

7200.3500 LATE FEES.

An applicant application for renewal shall pay the current late fee as well as the current renewal fee if the application for renewal is postmarked after the last day of the last month during which the license is in effect is valid only upon payment of both the current renewal fee and current late fee.

7200.3510 TERMINATION NOTICE.

Within 30 days after the renewal date, a licensee who has not renewed the license shall be notified by registered or certified letter sent to the last known address of the licensee in the file of the board that the renewal is overdue and that failure to pay the current fee and current late fee within 60 days after the renewal date will result in termination of the license. A second notice shall be sent at least seven days before a board meeting occurring 60 days or more after the renewal date to each licensee who has not remitted the renewal fee and late fee.

7200.3605 TERMINATION FOR NONRENEWAL OF LICENSE.

The board by means of a roll call vote shall terminate the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in part 7200.3510. Failure of a licensee to receive notification is not ground for later challenge of the termination. The former licensee shall be notified of the termination by registered or certified letter within seven days after the board action, in the same manner as provided in part 7200.3510. Failure of the former licensee to receive notice of termination is not ground for challenging the termination.

7200.3610 RELICENSURE FOLLOWING TERMINATION.

A former licensee whose license has been terminated as provided in part 7200.3605 may be relicensed after complying with all laws and rules required of applicants for examination and licensure and verifying that the former licensee has not engaged in the private practice of psychology in this state since the date of termination. The verification must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the former licensee. The fee for relicensure following termination is the licensure fee in effect at the time of application for relicensure, and rules governing relicensure are the rules in effect at the time the initial license was granted.

7200.3620 PRACTICING WITHOUT A LICENSE.

A former licensee seeking relicensure following termination as provided in part 7200.3605 who has engaged in the private practice of psychology in this state since the date of termination is subject to denial of licensure or disciplinary action at the time the new license is granted.

7200.3700 VOLUNTARY TERMINATION.

A licensee license may terminate the license by notifying be voluntarily terminated at any time upon written notification to the board in writing, unless a complaint is pending against the licensee. The notification must be received by the board prior to suspension termination of the license for failure to renew. A former licensee may be licensed again only after complying with all laws and rules required of applicants for examination and licensure, as provided in part 7200.3610 for relicensure after termination.

7200.3900 COLLABORATION.

Subpart 1. **Collaborator provided with summary.** An applicant for licensure as a licensed psychologist shall provide the collaborator, whose practice must be in the applicant's field of practice, with a brief summary of the training, experience, and stated areas of professional competence of the applicant.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Consultation required.** Formal collaboration is required only of licensed psychologists. Consultation is required of all licensees as indicated in parts 7200.4600, ~~item C~~ subpart 3 and 7200.4900, ~~item I~~ subpart 9.

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

7200.4600 COMPETENCE.

Subpart 1. and 2. [Unchanged.]

Subp. 2a. Burden of proof. Whenever a complaint is submitted alleging violation of subpart 1 or 2, the burden of proof is upon the psychologist to demonstrate the education and training that supports the psychologist's claim of competence.

Subp. 3. and 4. [Unchanged.]

7200.4700 PROTECTING THE PRIVACY OF CLIENTS.

Subpart 1. **In general.** A psychologist shall safeguard the private information obtained in the course of practice, teaching, or research. With the exceptions listed in subparts 2 ~~to~~, 4, 5 ~~and~~, 10, and 12, private information is disclosed to others only with the informed written consent of the client.

Subp. 2. **Disclosure without written consent.** Private information may be disclosed without the informed written consent of the client when the psychologist determines that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another ~~person~~ individual. In such case the private information is to be disclosed only to appropriate professional workers, public authorities, the potential victim, or the family of the client.

Subp. 3. **Services requested by one party for another Dual clients.** In any situation in which Whenever psychological services of a psychologist are requested or paid for by one party client for another party, the psychologist shall must inform both the requester and the receiver of the services clients of the psychologist's responsibility of the psychologist regarding the privacy of to treat any information gained in the course of rendering the services as private information.

Subp. 4. **Minor clients.** At the beginning of a professional relationship, a psychologist shall must inform a minor client who is a minor of the limit that the law imposes a limit on the right of privacy of a the minor with respect to the minor's communications of a minor with a psychologist.

Subp. 5. **Limited access to client records.** A psychologist shall limit access to client records and shall inform every ~~person~~ individual associated with the agency or facility of the psychologist, such as a staff member, student, volunteer, or community aide, that access to client records shall be limited only to the psychologist with whom the client has a professional relationship, a ~~person~~ an individual associated with the agency or facility whose duties require access, and a ~~person~~ an individual authorized to have access by the informed written consent of the client.

Subp. 6. to 11. [Unchanged.]

Subp. 12. Disciplinary cases. A psychologist must disclose to the board and its agents client records that the board and its agents consider to be germane to a disciplinary proceeding.

7200.4810 IMPAIRED OBJECTIVITY, EFFECTIVENESS.

Subpart 1. Psychological services prohibited. A psychologist must not provide psychological services to a client or potential client when the psychologist's objectivity or effectiveness is impaired.

Subp. 2. Elements of impaired objectivity, effectiveness. A psychologist's objectivity or effectiveness is impaired whenever:

A. the psychologist has a dual relationship with a client;

B. the psychologist misuses the relationship with a client due to a relationship with another individual or entity;

C. the psychologist is biased against a client because of the client being a member of a class of individuals that is legally protected from discrimination;

D. the psychologist is dysfunctional as a result of a severe physical or mental health problem, including chemical abuse or dependency; or

E. the psychologist exploits the professional relationship with a client for the psychologist's emotional, financial, sexual, or personal advantage or benefit.

Subp. 3. Termination of services. Whenever a psychologist's objectivity or effectiveness becomes impaired during a professional relationship with a client, the psychologist must notify the client orally and in writing that the psychologist can no longer see the client professionally and must assist the client in obtaining services from another professional.

7200.4900 CLIENT WELFARE.

Subpart 1. **Providing explanation of procedures.** A client has the right to have and a psychologist has the responsibility to provide, on request, a nontechnical explanation of the nature and purpose of the psychological procedures to be used and the results of tests administered to the client. The psychologist shall establish procedures to be followed if the explanation is to be provided by another ~~person~~ individual under the direction of the psychologist.

Subp. 1a. Client records. A client has the right of access to the records maintained by the psychologist on that client, as provided in Minnesota Statutes, section 144.335, subdivision 2. A psychologist must maintain an accurate record for each client. Each record must minimally contain:

A. an accurate chronological listing of all client visits, together with fees charged to the client or a third party payer;

B. copies of all correspondence relevant to the client;

C. a client personal data sheet; and

D. copies of all client authorizations for release of information and any other legal forms pertaining to the client. A psychologist who is an employee of an agency or facility need not maintain client records separate from records maintained by the agency or facility.

Subp. 2. **Statement of competence; clients' rights.** A psychologist shall display prominently on the premises of the professional practice or make available as a handout the statement of areas of competence submitted to the board and the bill of rights of clients, including a statement that consumers of psychological services offered by psychologists licensed by the state of Minnesota have the right:

A. and B. [Unchanged.]

C. to obtain a copy of the rules of conduct from the *State Register* and Public Documents Division, Department of Administration, 117 University Avenue, ~~St.~~ Saint Paul, MN 55155;

D. and E. [Unchanged.]

F. to privacy as defined by rule and law; ~~and~~

G. to be free from being the object of discrimination on the basis of race, religion, gender, or other unlawful category while receiving psychological services;

H. to have access to their records as provided in Minnesota Statutes, section 144.335, subdivision 2; and

I. to be free from exploitation for the benefit or advantage of the psychologist.

Subp. 3. to 7. [Unchanged.]

Subp. 7a. Exploitation of client. A psychologist must not exploit in any manner the professional relationship with a client for the psychologist's emotional, financial, sexual, or personal advantage or benefit.

Subp. 8. **Sexual contact with a client.** A psychologist shall not engage in sexual intercourse or other physical intimacies with a client, nor in any verbal or physical behavior which is sexually seductive or sexually demeaning to the client. Physical intimacies include handling of the breasts ~~or~~, genital areas, buttocks, or thighs of either sex by either the psychologist or the client. A psychologist must not engage in sexual intercourse or other physical intimacies with a former client for a period of two years following the date of the last professional contact with the client, whether or not the psychologist has formally terminated the professional relationship.

Subp. 9. [Unchanged.]

Subp. 10. **Complaints to board.** A psychologist shall file a complaint with the board when the psychologist has reason to believe that another psychologist is or has been engaged in conduct which violates subpart 8, or part 7200.4700, subpart 11, ~~failure to report suspected abuse of children or vulnerable adults, or subpart 8 of this part,~~ sexual contact with a client. This requirement to file a complaint does not apply when the belief is based on information obtained in the course of a professional relationship with a client who is the other psychologist. Nothing in this ~~rule part~~ rule part relieves a psychologist from the duty to file a report as required by *Minnesota Statutes*, section 626.556 or 626.557, reporting abuse of children and vulnerable adults.

Subp. 11. and 12. [Unchanged.]

7200.5000 ASSESSMENTS, TESTS, REPORTS.

Subpart 1. **Test information for users.** A test or automated test interpretation service offered for use Except for research purposes, psychological tests used by qualified professionals shall be accompanied by psychologists must include a manual or other readily available published information which fully describes the development of the test or service, the rationale for the test, evidence of the validity and reliability of the test, and characteristics of the normative population data. The psychologist shall explicitly state

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 purposes and application for which the test is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that the advertisements for the test are factual, descriptive, and not evaluative.

Subp. 1a. Computerized testing services. A psychologist who uses computerized testing services is responsible for the legitimacy and accuracy of the test interpretations. Computer generated interpretations of tests must be used only in conjunction with professional judgment. A psychologist must indicate when a test interpretation is not based on direct contact with the client, that is, when it is a blind interpretation.

Subp. 1b. Administration and interpretation of tests. A psychologist must be qualified to administer and interpret tests employed and must be prepared to explain to the client the purposes, applications, scoring, and interpretation of those tests.

Subp. 2. Offering tests for publication. A psychologist must not offer psychological tests for commercial publication only to those publishers who have presented present tests in an unprofessional a professional manner and who have distributed distribute them only to other than qualified professional users. The psychologist must ensure that test advertisements are factual and descriptive.

Subp. 3. Test results; reservations Reports. A report of the results of a test shall include relevant reservations or qualifications regarding validity or reliability which a psychologist may have because of the testing circumstances or any deficiencies of the test norms for the individual tested, and how the psychologist has applied those reservations and qualifications to the score of the individual. The provision of a written or oral report, including testimony of a psychologist as an expert witness, concerning the psychological or emotional health or state of a client, is a psychological service. The report must include:

A. a description of all assessments, evaluations, or other procedures upon which the psychologist's conclusions are based;

B. any reservations or qualifications concerning the validity or reliability of the conclusions formulated and recommendations made, taking into account the conditions under which the procedures were carried out, the limitations of scientific procedures and psychological descriptions, and the impossibility of absolute predictions;

C. a notation concerning any discrepancy, disagreement, or conflicting information regarding the circumstances of the case that may have a bearing on the psychologist's conclusions; and

D. a statement as to whether the conclusions are based on direct contact between the psychologist and the client.

Subp. 4. [Unchanged.]

7200.5100 PUBLIC ANNOUNCEMENT OF SERVICES STATEMENTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Limit on use of degree. A psychologist licensed by virtue of a master's degree who has a doctorate from an institution that is not accredited by a regional accrediting association or whose doctoral major does not meet the education requirements for licensure may not use the term "Ph.D.," "Psy.D.," or "Ed.D." with the psychologist's name in any situation or circumstance related to the practice of psychology.

7200.5200 FEES AND STATEMENTS.

Subpart 1. [Unchanged.]

Subp. 2. Itemized fee statement. A psychologist shall itemize fees for all services for which the client or a third party is billed and make the itemized statement available to the client. The statement shall identify at least the date on which the service was provided, the nature of the service, the name of the person individual providing the service, and the name of the person individual who is professionally responsible for the service.

Subp. 3. No misrepresentation. A psychologist shall not directly or by implication misrepresent to the client or to a third party billed for services the nature of the services, the extent to which the psychologist has provided the services, or the person individual who is professionally responsible for the services provided.

Subp. 4. Fees to be claimed only by provider. A psychologist shall not claim a fee for services unless the psychologist is either the direct provider of the services or the person individual who is professionally responsible for the provision of the services and under whose direction the services were provided.

Subp. 5. [Unchanged.]

Subp. 6. [See Repealer.]

7200.5300 PRACTICING WITHOUT A LICENSE.

A psychologist shall not aid or abet an unlicensed person individual in engaging in the private practice of psychology. A psychologist who supervises a person an individual preparing for the professional practice of psychology according to *Minnesota Statutes*, section 148.97, subdivision 3, clause (2) is not in violation of this rule part if the person individual is not engaging in the private practice of psychology.

7200.5400 WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.

A psychologist shall protect the welfare of psychology students, supervisees, and research subjects and shall accord the students, supervisees, and human research subjects the client rights listed in parts 7200.4700 and 7200.4900, except for parts 7200.4700, subparts 4 and 6, and 7200.4900, subparts 4, 6, and 9.

7200.5600 DECEPTION OR FRAUD.

A psychologist must not engage in any conduct likely to deceive or defraud the public or the board.

7200.5700 UNPROFESSIONAL CONDUCT.

A psychologist must not engage in any unprofessional conduct. Unprofessional conduct is any conduct violating parts 7200.4600 to 7200.5600 or violating those standards of professional behavior that have become established by consensus of the expert opinion of psychologists as reasonably necessary for the protection of the public interest.

7200.6000 WAIVERS AND VARIANCES.

Subpart 1. **Waivers; application.** A licensee or applicant for licensure may apply to petition the board for a time-limited waiver of any rule except for any part of a rule which incorporates a statutory requirement. The waiver shall be granted if:

A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the ~~licensee or application of the applicant~~ petitioner;

B. adherence to the rule would impose an undue burden on the ~~licensee or applicant~~ petitioner; and

C. the granting of a waiver will not adversely affect the public welfare.

Subp. 2. **Waivers; renewal, reporting, and revocation.** A waiver shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any ~~licensee~~ petitioner who is granted a waiver shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 3. **Variances; application.** A licensee or applicant may apply to petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the ~~licensee or applicant~~ petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;

B. adherence to the rule would impose an undue burden on the ~~licensee or applicant~~ petitioner; and

C. the granting of the variance will not adversely affect the public welfare.

Subp. 4. **Variances; compliance.** Any ~~licensee or applicant~~ petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

Subp. 5. **Variance; renewal, reporting, and revocation.** A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any ~~licensee or applicant~~ petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 6. **Burden of proof.** The burden of proof is upon the ~~licensee or applicant~~ petitioner to demonstrate to the board that the requirements ~~in~~ in subparts 1 and 3 have been met.

Subp. 7. **Statement of reasons.** The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

REPEALER. Minnesota Rules, parts 7200.1400; 7200.3600; 7200.3800; 7200.4800; and 7200.5200, subpart 6, are repealed.

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.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, 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.

Proposed Amendments to the Minnesota Constitution

Statement of Purpose and Effect of Amendments

September, 1988

TO: The Voters of Minnesota

The following proposed amendments to the Constitution of the State of Minnesota will be submitted to the voters for their approval or rejection at the November 8, 1988 general election. Each amendment requires a separate vote. If a majority of all who vote in the November 8 election votes "YES", an amendment is adopted. A voter at the election who does not vote on an amendment is in effect voting "NO". Printed here are the proposed amendments as they will appear on the ballot. Following each question is a statement, prepared pursuant to M.S. 3.21 by Attorney General Hubert H. Humphrey III, of the purpose and effect of the proposed amendments.

Sincerely,
Joan Anderson Growe
Secretary of State

AMENDMENT NO. 1 — ENVIRONMENTAL TRUST FUND: TO ESTABLISH

YES
NO

"Shall the Minnesota Constitution be amended to establish a Minnesota Environment and Natural Resources Trust Fund for environmental, natural resource, and wildlife purposes?"

The purpose and effect of the amendment proposed in Minnesota Laws 1988, ch. 690, article 1, section 1, is:

1. A permanent Minnesota Environmental and Natural Resources Trust Fund would be established in the state treasury.
2. The Legislature would appropriate earnings from the Fund for protection, conservation, preservation and enhancement of the state's air, water, land, fish, wildlife and other natural resources.
3. The principal of the Fund would be perpetual and inviolate forever, except that appropriations could be made from up to 25 percent of the annual revenue deposited in the Fund until fiscal year 1997 and loans could be made of up to 5 percent of the principal of the fund for water system improvements as provided by law. Investments of the Fund could be sold at less than cost to the Fund, but losses not offset by gains would be repaid to the Fund from earnings.

In chapter 690, the Legislature also adopted statutory provisions which will be effective only if the people ratify the proposed amendment. The statutory provisions would, among other things, require that the Fund not be used as a substitute for traditional sources of funding environmental and natural resources activities, but supplement traditional sources; require certain proceeds from a state-operated lottery to be credited to the Fund; permit gifts and donations to be made to the Fund; create a Minnesota Future Resources Commission to develop a budget plan for expenditures from the Fund; create a citizens advisory committee to advise the Minnesota Future Resources Commission, and provide that money in the Fund may be spent only for specified types of programs.

If the amendment is adopted, a new section 14 of Article XI will read (additions indicated by underline):

Sec. 14. A permanent Minnesota environment and natural resources trust fund is established in the state treasury. The principal of the environment and natural resources trust fund must be perpetual and inviolate forever, except appropriations may be made from up to 25 percent of the annual revenue deposited in the fund until fiscal year 1997 and loans may be made of up to five percent of the principal of the fund for water system improvements as provided by law. This restriction does not prevent the sale of investments at less than the cost of the fund, however, all losses not offset by gains shall be repaid to the fund from the earnings of the fund. The net earnings from the fund shall be appropriated in a manner prescribed by law for the public purpose of protection, conservation, preservation, and enhancement of the state's air, water, land, fish, wildlife, and other natural resources.

AMENDMENT NO. 2 — JURIES: TO ALLOW LESS THAN TWELVE MEMBERS

YES
NO

"Shall the Minnesota Constitution be amended to allow the use of juries of less than 12 members in civil and non-felony cases?"

The purpose and effect of the amendment proposed in Minnesota Laws 1988, chapter 716, is:

1. The Legislature would be authorized to enact a statute providing for the number of jurors in a civil action, but the statute would have to provide for at least six jurors.
2. A person accused of a felony crime would have the right to a jury of twelve members. The Legislature would be authorized to enact a statute providing for the number of jurors in other criminal prosecutions, but the statute would have to provide for at least six jurors.

If the amendment is adopted, Article I, Section 4 will read (additions indicated by underline):

Sec. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The Legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict. The legislature may provide for the number of jurors in a civil action or proceeding, provided that a jury have at least six members.

If the amendment is adopted, Article I, Section 6, will read (additions indicated by underline):

Sec. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. In all prosecutions of crimes defined by law as felonies, the accused has the right to a jury of 12 members. In all other criminal prosecutions, the legislature may provide for the number of jurors, provided that a jury have at least six members. The accused shall enjoy the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense.

AMENDMENT NO. 3 — STATE LOTTERY: TO PERMIT LEGISLATURE TO AUTHORIZE

YES
NO

"Shall the Minnesota Constitution be amended to permit the legislature to authorize a lottery operated by the state?"

The purpose and effect of the amendment proposed in Minnesota Laws 1988, chapter 690, article 1, section 2, is that the Legislature would be authorized to enact a statute authorizing a lottery and sale of lottery tickets for a lottery operated by the state.

In chapter 690, the Legislature also adopted statutory provisions which will be effective only if the people ratify the proposed amendment. The statutory provisions would, among other things, require that during the first five full fiscal years in which proceeds from the lottery are received, the net lottery proceeds from the state-operated lottery would be shared equally by the Minnesota Environment and Natural Resources Trust Fund and the Greater Minnesota Corporation Fund. Thereafter, as determined by law each biennium, up to one-half of the net proceeds of the state-operated lottery must be credited to each of the two funds.

If the amendment is adopted, Article XIII, section 5 will read (additions indicated by underline):

Sec. 5. The legislature shall not authorize any lottery or the sale of lottery tickets, other than authorizing a lottery and sale of lottery tickets for a lottery operated by the state.

Executive Orders

Executive Order # 88-10: Providing for the Establishment of the Governor's Council on Fire Prevention and Control; Repealing Executive Order 85-13

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, it is vital for state government to encourage the development of the best possible fire education, protection, and prevention services for the people of Minnesota; and

WHEREAS, to achieve this goal requires a concerted effort at the state, federal, and local level to improve current services and develop new ones; and

WHEREAS, a complex array of agencies and organizations deliver fire education, protection, and prevention services in Minnesota; and

WHEREAS, no single state agency is responsible for coordinating their delivery;

NOW, THEREFORE, I hereby order that a Governor's Council on Fire Prevention and Control be established to improve the coordination, quantity, and quality of these services in Minnesota.

1. The Council shall consist of fifteen members, appointed by the Commissioner of Public Safety. Members shall include:

- people employed in fire prevention and control occupations,
- people engaged in teaching fire prevention and control,
- representatives of state and municipal government units, and
- representatives of other organizations actively involved in fire prevention and control.

The following individuals or their designees shall serve as ex-officio, non-voting members:

- the Director of Forestry, Department of Natural Resources,
- the State Building Code Director, Department of Administration,
- the Director of Emergency Services, Department of Public Safety,
- the State Fire Marshal, Department of Public Safety, and
- the Fire Service Supervisor, Vocational Technical Education System.

2. Membership terms, removal of members, compensation of members, and filling of vacancies shall be in accordance with *Minnesota Statutes* 1986, Section 15.0593.

3. The Council shall advise the Governor, the Commissioner of Public Safety, state agencies and political subdivisions on:

- the development, administration, and scope of fire protection research, and fire prevention and control,
- the needs of Minnesota fire suppression and control services, and
- the development and provision of coordinated education and training programs for Minnesota's fire suppression and control services and the general public.

4. The Council, in performing its duties, shall receive assistance from state agencies, as appropriate.

5. The Department of Public Safety, on behalf of the Council, shall serve as Minnesota's principal liaison to the United States Fire Administration for purposes of:

- applying for and receiving of federal funds issued by the United States Fire Administration, and
- facilitating communication with that agency.

The Commissioner of Public Safety, on behalf of the Council, shall disburse federal and private funds in accordance with state law except where federal laws, rules, or regulations supercede state law.

Executive Orders

6. This Order shall not preclude other state agencies from applying for, receiving, accepting, and expending funds available through the United States Fire Administration if they are so authorized under state or federal law.

7. Executive Order No. 85-13 is repealed.

Pursuant to *Minnesota Statutes* 1986, Section 4.035, Subdivision 2, this Order shall be effective fifteen (15) days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1986, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 19th day of September, 1988.



Rudy Perpich
Governor

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any 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. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Sound system
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: October 5
Agency: State University
Deliver to: Winona
Requisition #: 26074 12348

Commodity: Used system 36 computer equipment
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: October 5
Agency: Jobs & Training
Deliver to: St. Paul
Requisition #: 21200 19385

Commodity: Lease/purchase of Xerox 1065 or AB Dick K627A copiers
Contact: Teresa Ryan 612-296-7556
Bid due date at 2pm: October 5
Agency: DHS—Regional Treatment Center
Deliver to: Willmar
Requisition #: 55106 07016

Commodity: Marble containers & brass signs
Contact: Doug Thompson 612-296-3775
Bid due date at 2pm: October 5
Agency: Plant Management
Deliver to: Various
Requisition #: 02307 81321

Commodity: Weather instrumentation
Contact: Joseph Gibbs 612-296-3750
Bid due date at 2pm: October 5
Agency: State University
Deliver to: Mankato
Requisition #: 26071 18342

Commodity: Overhead projectors
Contact: Don Olson 612-296-3771
Bid due date at 2pm: October 6
Agency: Various
Deliver to: Various
Requisition #: Price Contract

State Contracts and Advertised Bids

Commodity: Vehicle simulator accessories
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: October 7
Agency: State University
Deliver to: St. Cloud
Requisition #: 26073 20673

Commodity: Library shelving & installation
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: October 7
Agency: Community College
Deliver to: Rochester
Requisition #: 02310 16383

Commodity: Elevator maintenance contract
Contact: Juanita Steffen 612-297-3830
Bid due date at 2pm: October 10
Agency: State University
Deliver to: Winona
Requisition #: 26074 12324

Commodity: Gas chromatograph
Contact: Joe Gibbs 612-296-3750
Bid due date at 2pm: October 11
Agency: Agriculture Department
Deliver to: St. Paul
Requisition #: 04111 91736

Commodity: Electrical supplies only—rebid
Contact: Pat Anderson 612-296-3777
Bid due date at 2pm: October 12
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Regular and unleaded gasoline, no. 1 diesel fuel, no. 2 regular diesel fuel, and no. 2 premium diesel fuel
Contact: Jim Johnson 612-296-3779
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Loose leaf binder mechanisms
Contact: Ann Wefald 612-296-2546
Bid due date at 2pm: October 12
Agency: Correctional Facility—Oak Park Heights
Deliver to: Oak Park Heights
Requisition #: Price Contract

Commodity: Retrofitting
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: October 12
Agency: Community College
Deliver to: Brainerd
Requisition #: 02310 16338

Commodity: Forklift 8000 lb. capacity
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: October 11
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 29000 50992

Commodity: Aluminum Tags
Contact: Joyce Dehn 612-296-2621
Bid due date at 2pm: October 14
Agency: DNR
Deliver to: St. Paul
Requisition #: 29000-50948

Commodity: Safe Hit Posts
Contact: Joyce Dehn 612-296-2621
Bid due date at 2pm: October 11
Agency: Transportation Dept.
Deliver to: Golden Valley
Requisition #: 70500-03177

Contract Awards—Materials Management Division

Item: Sound reproduction equipment
Req.#: 02310 16339 01
Awarded to: Vaughn Communications, Minneapolis, MN
Awarded amount: \$63,695.00
Awarded date: September 21, 1988
Expir/deliv date: November 30, 1988
Shipped to: Minneapolis Community College

Item: Sound reproduction equipment
Req.#: 02310 16340 01
Awarded to: Vaughn Communications, Minneapolis, MN
Awarded amount: \$47,790.00
Awarded date: September 21, 1988
Expir/deliv date: November 30, 1988
Shipped to: Minneapolis Community College

Item: Services other professional technical
Req.#: 04261 91679 01
Awarded to: Minnesota News Network, St. Paul, MN
Awarded amount: \$16,800.00
Awarded date: September 21, 1988
Expir/deliv date: October 1, 1988
Shipped to: Various Locations

Item: Repair & alteration to building
Req.#: 27000 10406 01
Awarded to: Air Corporation Inc., Golden Valley, MN
Awarded amount: \$8,350.00
Awarded date: September 21, 1988
Shipped to: Normandale Community College

Item: Lumber & related basic wood
Req.#: 29005 11913 01
Awarded to: Shaw Lumber Company, St. Paul, MN
Awarded amount: \$22,158.75
Awarded date: September 21, 1988
Expir/deliv date: November 1, 1988
Shipped to: Various Locations

Item: Meat fresh, frozen, canned, cured
Req.#: 78620 00250 03
Awarded to: Armour & Company, St. Paul, MN
Awarded amount: \$5,790.63
Awarded date: September 21, 1988
Shipped to: MN Correctional Facility

State Contracts and Advertised Bids

Item: Meat fresh, frozen, canned, cured
Req.#: 78620 00250 02
Awarded to: Champion Meat and Catering, St. Paul, MN
Awarded amount: \$9,873.10
Awarded date: September 21, 1988
Shipped to: MN Correctional Facility

Item: Meat fresh, frozen, canned, cured
Req.#: 78620 00250 01
Awarded to: Granite City Meats, Sauk Rapids, MN
Awarded amount: \$5,877.00
Awarded date: September 21, 1988
Shipped to: MN Correctional Facility

Item: Meat fresh, frozen, canned, cured
Req.#: 78830 09466 01
Awarded to: Armour & Company, St. Paul, MN
Awarded amount: \$8,642.20
Awarded date: September 21, 1988
Shipped to: MN Correctional Facility

Item: Surveying supplies
Req.#: 79000 91551 01
Awarded to: Berntsen Cast Products, Madison, WI
Awarded amount: \$28,091.50
Awarded date: September 21, 1988
Expir/deliv date: October 14, 1988
Shipped to: Various Locations

Item: Service other purchased
Req.#: 99650 89044 01
Awarded to: Ameridata Systems Inc., Minneapolis, MN
Awarded amount: \$6,875.00
Awarded date: September 21, 1988
Expir/deliv date: September 28, 1988
Shipped to: Waste Management Board

Item: Laboratory supplies
Req.#: 26071 18305 01
Awarded to: Leeds Precision Instruments, Minneapolis, MN
Awarded amount: \$11,715.00
Awarded date: September 22, 1988
Expir/deliv date: October 6, 1988
Shipped to: Mankato State University

Item: Micro Graphic unitizing equipment
Req.#: 26073 20623 01
Awarded to: Mid American Business System, Minneapolis, MN
Awarded amount: \$11,060.00
Awarded date: September 22, 1988
Expir/deliv date: October 7, 1988
Shipped to: St. Cloud State University

Item: Refrigeration & air conditioning work
Req.#: 27000 10405 01
Awarded to: Air Corporation Inc., Golden Valley MN
Awarded amount: \$5,680.00
Awarded date: September 22, 1988
Expir/deliv date: October 9, 1988
Shipped to: Normandale Community College

Item: Chromatographs, gas
Req.#: 32200 18617 01
Awarded to: Photovac International, Huntington, NY
Awarded amount: \$16,670.00
Awarded date: September 22, 1988
Expir/deliv date: October 11, 1988
Shipped to: MN Pollution Control Agency

Item: Lumber & related basic wood
Req.#: 79350 00927 01
Awarded to: Robertson Lumber Company, St. Cloud, MN
Awarded amount: \$5,214.20
Awarded date: September 22, 1988
Expir/deliv date: October 14, 1988
Shipped to: MN Department of Transportation

Item: Photocopy & copy machine expense
Req.#: 99650 89042 01
Awarded to: Xerox Corporation, Edina, MN
Awarded amount: \$11,333.50
Awarded date: September 22, 1988
Shipped to: Waste Management Board

Item: Nuclear magnetic resonance equipment
Req.#: 26070 14000 01
Awarded to: Varian Inc., Sugarland, TX
Awarded amount: \$61,500.00
Awarded date: September 23, 1988
Expir/deliv date: June 30, 1989
Shipped to: Bemidji State University

Item: Computer equipment
Req.#: 26074 12337 01
Awarded to: Data General, Minnetonka, MN
Awarded amount: \$5,651.60
Awarded date: September 23, 1988
Expir/deliv date: October 20, 1988
Shipped to: Winona State University

Item: Computer equipment—supplies
Req.#: 26074 12338 01
Awarded to: Data General, Minnetonka, MN
Awarded amount: \$6,003.05
Awarded date: September 23, 1988
Expir/deliv date: October 20, 1988
Shipped to: Winona State University

Item: Clothing outerwear men
Req.#: 29008 80243 01
Awarded to: Weber P. J. Clothing, St. Cloud, MN
Awarded amount: \$7,266.00
Awarded date: September 23, 1988
Expir/deliv date: November 30, 1988
Shipped to: DNR—Southern Service Center

Item: Construction material miscellaneous
Req.#: 55106 07004 01
Awarded to: Arch Sale Minnesota Inc., New Hope, MN
Awarded amount: \$9,271.75
Awarded date: September 23, 1988
Expir/deliv date: October 25, 1988
Shipped to: Willmar Regional Treatment Center

Item: Janitorial & refuse disposal service
Req.#: 75250 40128 01
Awarded to: Action Disposal Service, Inver Grove Heights, MN
Awarded amount: \$8,750.00
Awarded date: September 23, 1988
Shipped to: Minnesota Veterans Home

State Contracts and Advertised Bids

Item: Road clearing & cleaning equipment
Req.#: 79382 01512 01
Awarded to: MacQueen Equipment Inc., St. Paul, MN
Awarded amount: \$60,382.00
Awarded date: September 23, 1988
Expir/deliv date: October 26, 1988
Shipped to: Various Locations

Item: Truck HD over 27,000 GVW
Req.#: 79382 01501 01
Awarded to: Lakeland Ford, South St. Paul, MN
Awarded amount: \$56,371.40
Awarded date: September 23, 1988
Expir/deliv date: March 15, 1989
Shipped to: Various Locations

Item: Paint, varnish, thinner, solvent
Req.#: 79200 03334 01
Awarded to: Flexolite A. Lukens, St. Louis, MO
Awarded amount: \$5,230.00
Awarded date: September 23, 1988
Expir/deliv date: October 10, 1988
Shipped to: MN Department of Transportation

Item: Tank storage
Req.#: 79350 00936 01
Awarded to: Engle Fabrication Inc., Sauk Centre, MN
Awarded amount: \$5,800.00
Awarded date: September 23, 1988
Expir/deliv date: October 20, 1988
Shipped to: MN Department of Transportation

Item: Repair & alteration to building
Req.#: 02307 91285 01
Awarded to: Unesco Inc., Minneapolis, MN
Awarded amount: \$6,242.00
Awarded date: September 26, 1988
Shipped to: Various Locations

Item: Printing equipment
Req.#: 02520 92047 01
Awarded to: Standard Duplicators, Minneapolis, MN
Awarded amount: \$9,468.00
Awarded date: September 26, 1988
Expir/deliv date: November 16, 1988
Shipped to: MN Department of Administration

Item: Laboratory supplies
Req.#: 04111 91495 01
Awarded to: Varian Instrument Group, Sugarland, TX
Awarded amount: \$20,290.00
Awarded date: September 26, 1988
Expir/deliv date: November 22, 1988
Shipped to: MN Department of Agriculture

Item: Computer equipment
Req.#: 21200 19165 01
Awarded to: Paradyne Corporation, Minneapolis, MN
Awarded amount: \$280,175.00
Awarded date: September 26, 1988
Expir/deliv date: October 6, 1988
Shipped to: MN Department of Jobs and Training

Item: Drafting graphic art equipment
Req.#: 30000 17137 01
Awarded to: Pro West & Associates, Walker, MN
Awarded amount: \$10,008.00
Awarded date: September 26, 1988
Expir/deliv date: November 14, 1988
Shipped to: State Planning Agency

Item: Boiler repair parts
Req.#: 78550 06580 01
Awarded to: Burner Service &, Minneapolis, MN
Awarded amount: \$5,639.00
Awarded date: September 26, 1988
Expir/deliv date: October 14, 1988
Shipped to: MN Correctional Facility

Item: Clothing outerwear men
Req.#: 78620 00260 01
Awarded to: Williams Store, Mound, MN
Awarded amount: \$6,525.00
Awarded date: September 26, 1988
Expir/deliv date: October 31, 1988
Shipped to: MN Correctional Facility

Item: Laundry & dry cleaning equipment
Req.#: 02310 16076 01
Awarded to: Minnesota Chemical Company, St. Paul, MN
Awarded amount: \$379,115.68
Awarded date: September 27, 1988
Expir/deliv date: November 18, 1988
Shipped to: Various Locations

Item: Automobile
Req.#: 07300 52360 01
Awarded to: National Fleet Sales, Edina, MN
Awarded amount: \$11,990.00
Awarded date: September 27, 1988
Expir/deliv date: October 10, 1988
Shipped to: Department of Public Safety

Item: Service other purchased
Req.#: 26175 09213 01
Awarded to: Olson Charter Service, Hanley Falls, MN
Awarded amount: \$17,100.00
Awarded date: September 27, 1988
Shipped to: Southwest State University

Item: Computer printer
Req.#: 26074 12344 01
Awarded to: Inacomp Computer Centers, Plymouth, MN
Awarded amount: \$10,430.00
Awarded date: September 27, 1988
Expir/deliv date: October 10, 1988
Shipped to: Winona State University

Item: Fire fighting tool and equipment
Req.#: 29000 50830 01
Awarded to: Horvick Manufacturing Company Inc., Fargo, ND
Awarded amount: \$5,372.07
Awarded date: September 27, 1988
Expir/deliv date: October 12, 1988
Shipped to: Department Natural Resources

Item: Fire fighting tool and equipment
Req.#: 29000 50831 01
Awarded to: Horvick Manufacturing Company, Inc., Fargo, ND
Awarded amount: \$5,160.00
Awarded date: September 27, 1988
Expir/deliv date: October 12, 1988
Shipped to: DNR — Southern Service Center

Item: Laundry & dry cleaning equipment
Req.#: 55000 91042 01
Awarded to: Minnesota Chemical Company, St. Paul, MN
Awarded amount: \$404,562.32
Awarded date: September 27, 1988
Expir/deliv date: November 18, 1988
Shipped to: Various Locations

State Contracts and Advertised Bids

Item: Laundry & dry cleaning equipment

Req.#: 55000 91255 01

Awarded to: Minnesota Chemical Company, St. Paul, MN

Awarded amount: \$45,808.00

Awarded date: September 27, 1988

Expir/deliv date: November 18, 1988

Shipped to: Various Locations

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity: Attendance Cards, 21600 sheets, 2-sided, camera ready, 3¾" × 2", continuous form, fan fold

Contact: Printing Buyer's Office

Bids are due: October 4

Agency: State Auditor

Deliver to: St. Paul

Requisition #: 2129

Commodity: Affix labels to income tax books, 2,100M labels, 3-up on continuous form 12" × 15" carrier sheet

Contact: Printing Buyer's Office

Bids are due: October 10

Agency: DNR

Deliver to: St. Paul

Requisition #: 2042

Commodity: Process addresses and print labels for income tax books, 2,600M self adhesive labels, 4.2" × .92", 3 across continuous form, 12" × 15" carrier sheet

Contact: Printing Buyer's Office

Bids are due: October 10

Agency: DNR

Deliver to: St. Paul

Requisition #: 2043

Commodity: First class window envelope, 5M, self seal 9½" × 11¼", brown kraft with poly window

Contact: Printing buyer's office

Bids are due: October 7

Agency: Human Services Department

Deliver to: St. Paul

Requisition #: 2181

Commodity: Trails & Waterways brochures, includes color seps from color transparencies and enlargements

Contact: Printing buyer's office

Bids are due: October 7

Agency: DNR—Trails & Waterways

Deliver to: St. Paul

Requisition #: 2128

Commodity: 1989 Official MN highway map and overprinting, bid on various quantities starting at 50M up to 1,000M, 25" × 38", many overlays.

Contact: Printing buyer's office

Bids are due: October 11

Agency: Administration Department: Documents

Deliver to: St. Paul

Requisition #: 1095&7

Contract Awards—Printing & Mailing Services

Item: Hazardous waste manifest
Req.#: 1164
Awarded to: Pauly Business Forms,
Plymouth
Amount: \$2,224.50
Date: September 26
Deliver to: Administration: Documents,
St. Paul
Delivery date: 28 days

Item: Film preparation work for the
1989-90 official highway map
Req.#: 1096
Awarded to: Colorbrite, Inc.,
Minneapolis
Amount: \$13,365.00
Date: September 27
Deliver to: Administration: Documents,
St. Paul
Delivery date: As Requested

Item: Certificate of live birth
Req.#: 1542
Awarded to: Twin City Litho, Roseville
Amount: \$54.00
Date: September 16
Deliver to: Minnesota Health
Department, Minneapolis
Delivery date: 10 days

Item: Order for payment form
Req.#: 1626
Awarded to: Pauly Business Forms,
Plymouth
Amount: \$876.88
Date: September 16
Deliver to: Electricity Board, St. Paul
Delivery date: 28 days

Item: Official certificate of state weight
Req.#: 1548
Awarded to: Acme Tag Co.,
Minneapolis
Amount: \$2,142.40
Date: September 23
Deliver to: Agriculture Department, St.
Paul
Delivery date: 15 days

Item: Fire prone brochure
Req.#: 1605
Awarded to: Bolger Publications,
Minneapolis
Amount: \$8,336.00
Date: September 23
Deliver to: DNR, St. Paul
Delivery date: 12 working days

Item: Official inspection certificate
Req.#: 1679
Awarded to: Royal Business Forms,
Brooklyn Center
Amount: \$4,831.00
Date: September 21
Deliver to: Agriculture Department, St.
Paul
Delivery date: 30 days

Item: Staff development record
Req.#: 1689
Awarded to: Georgene Bergstrom
Company, Minneapolis
Amount: \$807.00
Date: September 21
Deliver to: Human Services
Department, St. Paul
Delivery date: 30 days

Item: 1989 resident small game license
Req.#: 1695
Awarded to: Moore Business Forms,
Bloomington
Amount: \$9,548.00
Date: September 26
Deliver to: DNR, St. Paul
Delivery date: As Requested

Item: 1989 resident shelter license
Req.#: 1697
Awarded to: Moore Business Forms,
Bloomington
Amount: \$3,760.00
Date: September 26
Deliver to: DNR, St. Paul
Delivery date: As Requested

Item: 1989 nonresident short term 7 day
angling license
Req.#: 1702
Awarded to: Moore Business Forms,
Bloomington
Amount: \$6,633.00
Date: September 26
Deliver to: DNR, St. Paul
Delivery date: As Requested

Item: 1989 nonresident individual
angling license
Req.#: 1704
Awarded to: Moore Business Forms,
Bloomington
Amount: \$6,448.75
Date: September 26
Deliver to: DNR, St. Paul
Delivery date: As Requested

Item: 1989 nonresident family angling
license
Req.#: 1705
Awarded to: Moore Business Forms,
Bloomington
Amount: \$7,376.25
Date: September 26
Deliver to: DNR, St. Paul
Delivery date: As Requested

Item: 1989 resident senior citizen
angling license
Req.#: 1710
Awarded to: Moore Business Forms,
Bloomington
Amount: \$7,391.25
Date: September 26
Deliver to: DNR, St. Paul
Delivery date: As Requested

Item: Registration certificate nursing
board
Req.#: 1716
Awarded to: Georgene Bergstrom
Company, Minneapolis
Amount: \$1,060.00
Date: September 23
Deliver to: Minnesota Health
Department, Minneapolis
Delivery date: 30 days

State Contracts and Advertised Bids

Item: Salary deduction report

Req.#: 1839

Awarded to: Pauly Business Forms

Company, Plymouth

Amount: \$9,260.00

Date: September 26

Deliver to: PERA, St. Paul

Delivery date: 28 days

Item: Gonococcus exam form

Req.#: 1731

Awarded to: Bann Division Stuart

Hooper Company, St. Paul

Amount: \$725.00

Date: September 23

Deliver to: Minnesota Health

Department, Minneapolis

Delivery date: 1st delivery 10-12 days

Item: Report of child maltreatment

Req.#: 1737

Awarded to: Georgene Bergstrom

Company, Minneapolis

Amount: \$626.00

Date: September 21

Deliver to: Human Services

Department, St. Paul

Delivery date: 30 days

Item: Location breakdown for calendar quarter ending

Req.#: 1784

Awarded to: Pauly Business Forms,

Plymouth

Amount: \$582.50

Date: September 21

Deliver to: Jobs and Training

Department, St. Paul

Delivery date: 28 days

Item: Assessment booklets, answer sheets, header sheets

Req.#: 1578

Awarded to: National Computer

Systems, Owatonna

Amount: \$25,549.20

Date: September 28

Deliver to: Education Department, St. Paul

Delivery date: 6 weeks

Item: 1989 resident individual angling license

Req.#: 1699

Awarded to: Moore Business Forms,

Bloomington

Amount: \$15,476.00

Date: September 28

Deliver to: DNR, St. Paul

Delivery date: As Requested

Item: Annual renewal certificates

Req.#: 1317

Awarded to: Complete Graphics

Company, Minneapolis

Amount: \$2,267.55

Date: September 28

Deliver to: MN Health Department,

Minneapolis

Delivery date: As requested

Item: Report of arrest

Req.#: 1362

Awarded to: Bann Division Stuart

Hooper Company, St. Paul

Amount: \$307.50

Date: September 28

Deliver to: Public Safety Department, St. Paul

Delivery date: 12-15 working days

Item: Minnesota driver's manual

Req.#: 1413

Awarded to: Viking Press, Eden Prairie

Amount: \$92,371.00

Date: September 28

Deliver to: Public Safety Department, St. Paul

Delivery date: As requested

Item: Water well record

Req.#: 1642

Awarded to: Royal Business Forms,

Brooklyn Center

Amount: \$845.25

Date: September 28

Deliver to: Human Services

Department, St. Paul

Delivery date: 30 days

Item: Small operation identification stickers

Req.#: 1793

Awarded to: Hawkensen Printing, St.

Paul

Amount: \$4,025.00

Date: September 28

Deliver to: Public Safety Department, St. Paul

Delivery date: Approximately 20 days

Item: Fluoride report form

Req.#: 1844

Awarded to: Pauly Business Forms,

Plymouth

Amount: \$309.20

Date: September 28

Deliver to: MN Health Department, Minneapolis

Delivery date: 28 days

Item: DOER Letterhead Bond Paper

Req.#: 1863

Awarded to: Hawkensen Printing, St. Paul

Amount: \$205.00

Date: September 28

Deliver to: Employee Relations Department, St. Paul

Delivery date: 10 working days

Item: Envelopes for state warrants

Req.#: 1899

Awarded to: Quality Park Products, St. Paul

Amount: \$302.50

Date: September 28

Deliver to: Human Services Department, St. Paul

Delivery date: 20 working days

Item: Willmar Community College general catalog 1988-1990

Req.#: 4428

Awarded to: Printed Media Services, Golden Valley

Amount: \$1,722.80

Date: September 28

Deliver to: Willmar Community College

Delivery date: As requested

Department of Corrections

MCF-Oak Park Heights and Stillwater Correctional Facilities

Notice of Request for Proposals for Providing Employee Physicals

NOTICE IS HEREBY GIVEN that the Minnesota Correctional Facility-Oak Park Heights and Minnesota Correctional Facility-Stillwater are requesting proposals for providing employee physical examinations to prospective and existing employees. The contract period will run from November 1, 1988 through June 30, 1991. The estimated cost for MCF-Oak Park Heights is \$5,000 for the period from November 1, 1988 through June 30, 1989, \$7,500 for the period from July 1, 1989 through June 30, 1990, and \$7,500 for the period from July 1, 1990 through June 30, 1991. The estimated cost for MCF-Stillwater is \$2,400 for the period from November 1, 1988 through June 30, 1989, \$3,000 for the period from July 1, 1989 through June 30, 1990, and \$3,000 for the period from July 1, 1990 through June 30, 1991. Specific details on the purpose and scope of these physical examinations can be obtained by calling Leanne Phinney, MCF-Oak Park Heights, Personnel Director, at (612) 779-1314. The proposals must be submitted by 4:30 p.m. on October 21, 1988. Send the proposals to: Leanne Phinney, MCF-Oak Park Heights, Box 10, Stillwater, Minnesota 55082.

Department of Employee Relations

Notice to Insurance and Administrative Organizations

Request for Proposal for a Dependent Care Expense Account Program

I. Overview:

The Department of Employee Relations (DOER) requests proposals from qualified organizations to provide a Dependent Care Expense Account Program for insurance eligible employees employed by the State of Minnesota.

The selected organization will provide technical and professional services including the design, development, implementation, and administration of the Dependent Care Expense Account Program.

II. Scope and Timing of Project:

There are approximately 33,500 insurance-eligible employees. The Department of Employee Relations intends to implement the program effective January 18, 1989.

III. Department Contacts:

A copy of the Request for Proposal is available upon request. Inquiries and requests should be directed by Mary Illies, Department of Employee Relations, 3rd Floor, 520 Lafayette Rd., St. Paul, MN 55155. (612) 297-1933.

IV. Submission of Proposals:

All proposals must be received no later than 4:00 p.m., October 24, 1988. Send the proposal to: Mary Illies, Department of Employee Relations, 3rd Floor, 520 Lafayette Road, St. Paul, MN 55155.

Submit three copies of the proposal. Proposals are to be sealed in envelopes or packages with the proposer's name and address clearly written on the outside. Label the envelope "Dependent Care Expense Account Proposal". Each copy of the proposal must be signed in ink by an executive officer of the proposing company.

V. Informational Session for Interested Organizations:

A conference for companies interested in submitting proposals will be held on October 12, 1988 at 10:00 a.m., 3rd Floor, 520 Lafayette, St. Paul, MN for the purpose of answering questions on the material contained in the Request for Proposal.

VI. Evaluation:

All proposals received by the deadline will be evaluated by the representatives of the Department of Employee Relations. Factors upon which proposals will be judged include, but are not limited to, the following:

- Cost, extent and quality of services.
- Previous experience in developing, implementing and administering expense account programs.
- Ability to provide accurate and timely claim processing and check disbursement and to interface with the state payroll system.

This Request for Proposal does not commit the Department of Employee Relations to award a contract, to pay any cost incurred in preparing a proposal for this request or to procure a contract for services or supplies.

Telecommunications Access for Communication Impaired Persons Board

Notice of Request for Proposals for a Study on the Economic Impact of Implementing the TACIP Program.

The Telecommunication Access for Communicatively-Impaired Persons (TACIP) Board is charged with the task of monitoring a statewide program to loan special telecommunications devices to lower-income communicatively-impaired people free of charge. TACIP seeks proposals from individuals or organizations to conduct a study of the economic impact of this program on local retailers and dispensers of this equipment. This Request for Proposals does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

1. Scope of Project/Objective

The study should supply TACIP with expert information concerning the potential economic impact on local vendors of implementing the statewide TACIP program. The purpose of the study is to provide the TACIP Board with the information necessary to determine whether TACIP's equipment distribution program will economically harm local communication device retailers and dispensers and if so, to present options to the TACIP Board concerning guidelines for the purchase of some of the program's communication devices from the local retailers and dispensers.

2. Project Tasks

Conducting research and presenting a report advising the Board on the following issues:

- A. Current status of the market for special communication devices in Minnesota.
 1. Secure sales and profit data from the major and minor special communication device vendors in the state;
 2. Estimate the unmet demand for special communication devices in the state.
- B. Model of the general economic impact of programs such as TACIP:
 1. Survey vendors and officials in other states where similar programs are in effect;
 2. Examine the impact of Northwestern Bell's "Low-Cost Lease" program on the special communication device market in Minnesota;
 3. Monitor changes in the market since the inception of the TACIP equipment distribution program;
 4. Develop an economic model to predict the impact of TACIP on the market for special communication devices.
- C. Estimated impact of TACIP on local dispensers and retailers of communication devices:
 1. Apply the model to the current state market in order to predict the short and long term impact of TACIP, providing explicit dollar impacts on both major and minor vendors;
 2. Advise the Board on possible actions which might help eliminate the economic harm caused by implementing TACIP;
 3. Advise the Board concerning options for the purchase of some of the program's communication devices from local vendors if the study reveals potential economic harm on local vendors due to TACIP's equipment distribution program.
 4. Present a final report to the Board summarizing data collected and conclusions made.

3. Project Costs

The TACIP Board has estimated the cost for professional services and expenses required to conduct this study should be approximately \$12,000-\$15,000.

4. Project Completion Date

The study will be completed on or before January 23, 1989.

5. Proposal Contents

The following will be considered minimum contents of the proposal:

- A. A restatement of the objectives to demonstrate the responder's view of the nature of the project;
- B. Identification and description of the services the responder will provide;
- C. A general work plan with periodic opportunities for TACIP review of progress;
- D. A clear description of project methodology, including the model to be used to isolate economic impacts on vendors, the specific variables to be used in the model, and the data collection techniques;

State Contracts and Advertised Bids

E. A listing of project cost estimates;

F. A complete description of qualifications of company and/or personnel. Training and experience of project personnel will be given greatest weight. Experience and training in the areas of economic modeling, research, and awareness of the telecommunication needs of communicatively-impaired people should be explained. Samples of previous work on similar projects should be included.

G. Send four copies of the proposal.

6. Selection

Evaluation and selection will be the responsibility of the TACIP Program Administrator and TACIP Chair, subject to final approval by the full TACIP Board. Results will be sent immediately by mail to all responders.

7. Deadline

On or before October 21, 1988, proposals must arrive at:

TACIP Program
790 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101
Phone: (612) 296-0412 Voice
(612) 296-9863 TDD

Minnesota Department of Transportation

Goals for Disadvantaged Business Enterprises for Federal Fiscal Year 1989

The Minnesota Department of Transportation (Mn/DOT) has established a goal of 10% for Disadvantaged business enterprises (DBE) for all modes of transportation for federal fiscal year 1989 (October 1, 1988 through September 30, 1989).

The Surface Transportation Uniform Relocation Assistance Act of 1987 (STURAA) required a 10% DBE goal. STURAA requires that women business owners be presumed to be socially and economically disadvantaged and are included in the DBE goal.

The department's DBE Plan is available for public inspection during normal business hours (8:00 a.m. to 4:00 p.m.) at Mn/DOT Central Office, Room 318-B Transportation Building, John Ireland Boulevard, St. Paul, Minnesota 55155, for 30 days following the date of this notice. Mn/DOT is open for public comment regarding the DBE goals for 45 days from the date of this notice. The comments are for informational purposes only.

Please respond to: The Minnesota Department of Transportation
EEO Contract Management Office
Room 318-B
St. Paul, Minnesota 55155

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Council

Request for Proposal for Aviation Consulting Services for the Metropolitan Council of the Twin Cities Area

NOTICE IS HEREBY GIVEN that the Metropolitan Council is requesting proposals for technical and professional planning services to conduct a regional system reliever airports study.

Non-State Public Contracts

The purpose of the study is to mitigate capacity constraints at Minneapolis-St. Paul International Airport (MSP), by developing strategies to increase capacity with emphasis on the reliever airports serving the Twin Cities region. Main study objectives are to: Identify existing and proposed relievers in the Twin Cities area that can accommodate general aviation demands; establish facility requirements and design level that can be developed at each reliever; and, identify operational and administrative mechanisms for capacity enhancement and improvement of system functioning. A disadvantaged business enterprise (DBE) participation goal of 12 percent has been set for this project.

The project should commence about January 1, 1989 and should be completed by December 31, 1989. All proposals must be received no later than 5:00 p.m. on November 7, 1988 to the attention of Chauncey Case, Transportation Division.

Copies of the Request for Proposal (RFP) may be obtained from the Metropolitan Council, 230 East Fifth Street, Mears Park Centre, St. Paul, Minnesota 55101. Inquiries should be directed to Chauncey Case, (612) 291-6342.

Supreme Court Decisions

Decisions Filed 30 September 1988

C8-87-2294 Jean M. Flemmings v. Control Data Corporation, self-insured, and Custodian of the Special Compensation Fund, Relator. Workers' Compensation Court of Appeals.

The employee's award of supplementary benefits after exhaustion of the statutory limit of 350 weeks of temporary total disability benefits is reversed.

Reversed. Amdahl, C.J.

C1-87-2475 State of Minnesota v. Roger Arthur Thompson, petitioner, Appellant. Court of Appeals.

Under Minn. R. Crim. P. 26.03, subd. 1, a criminal defendant has a right to be present at "every stage of the trial," including an in-chambers competency examination of a child witness.

Trial judge ordinarily should obtain criminal defendant's permission before giving CRIMJIG 3.17, which instructs jury not to draw any adverse inference from defendant's decision not to testify in his own behalf.

Affirmed. Amdahl, C.J.

Announcements

DNR Lakeshore Lot Land Sale: A booklet listing lakeshore lots for sale by the DNR is being sent out free to interested parties. The properties, many containing improvements, are located on Devil Track Lake, Cook County; Birch Lake, St. Louis County; and Wabana and Pokegama Lakes, Itasca County. Appraised values range from \$9,900 to \$88,000. Twenty-year fixed rate financing is available at 8% for land only. The lots will go up for auction per the following schedule: Tuesday 25 Oct—Devil Track Lake; Wed 26 Oct—Birch Lake; Thurs 27 Oct—Pokegama & Wabana Lakes. For more information contact the DNR Bureau of Real Estate Management at (612) 296-0639 or toll-free in Minnesota 1-800-652-9747.

Oct-Nov Surplus Food Distributions Cancelled: The state's anti-poverty program will not be able to distribute surplus food commodities to needy households in October and November because Minnesota's allocation of surplus commodities from the federal government's Temporary Emergency Food Assistance Program (TEFAP) in recent months was insufficient. Surplus commodities will be made available in December when the state's food supply is replenished. This is the first time that federal surplus food supplies have been so low in Minnesota that distribution was suspended for two consecutive months. TEFAP was re-authorized by Congress for 1989 and 1990, but the U.S. Department of Agriculture (USDA) informed DJT's Economic Opportunity Office (EOO) that the supply of surplus food commodities is being depleted. In May, USDA could not supply Minnesota with cheese and nonfat dry milk. Previously, the USDA had discontinued allocations of honey and rice. EOO distributes these Food commodities monthly to approximately 180,000 low-income families through local organizations, such as community action agencies, Indian government reservations and human service agencies. In September macaroni, butter, flour and, in some locations, rice were distributed.

Aflatoxin Presence Confirmed: Minnesota Department of Agriculture inspectors have confirmed the presence of aflatoxin, a known carcinogen that is toxic to both humans and animals, in one truckload of grain delivered to an elevator from a Lamberton, Minn., area farm. The sample measured a toxin level of 87.5 parts per billion, which is above Food and Drug Administration levels for human and dairy cow consumption of 20 parts per billion but below levels set for livestock consumption set at 100 parts per billion. State inspectors went to Lamberton to draw milk samples for testing, said Bill Coleman, director of the Minnesota Department of Agriculture Dairy Inspection Division. Aflatoxin is produced by a fungus, *Aspergillus flavus*, that is not common to the Midwest. The fungus thrives in high temperatures normally found in other regions of the nation. The fungus can grow on corn when the plant is weakened by drought.

\$280,000 Allocated to Train Dislocated Workers: The Governor's Job Training Council has approved \$280,000 of new funding from the federal Job Training Partnership Act (JTPA) for three projects that will serve dislocated workers. Two of the three projects will help people who were forced out of their line of work because of this year's drought. All three projects aim to help workers who must prepare for new careers to obtain the skills necessary for placement in private-sector jobs. JTPA services include skills assessment, counseling, remedial education, classroom training, on-the-job training and job placement. Projects target those workers who are likely to have the most difficult transitions getting back into the work force, such as older workers, single heads of households, those who have disabilities, and those who lack basic skills in reading and mathematics. Allocations include: • **\$40,000 to the Minnesota Department of Jobs and Training's Marshall Job Service office**, to serve 27 workers laid off from Corn Belt Foods, Inc. The plant, located in Marshall, shut down on Aug. 9 as the result of drought and lack of cattle to be slaughtered. Skills of former employees are not easily transferable to other types of work. • **\$150,000 to the Employment Action Center, a division of Multi Resource Centers, Inc., St. Louis Park**, to serve 150 of the 279 workers abruptly laid off from American Freight, a common carrier line located in Anoka County, which closed on Aug. 15. Project is a joint effort of Employment Action Center and the Minnesota Teamsters Service Bureau, in consultation with the Anoka County Job Training Partnership Act Service Delivery Area. • **\$90,000 to Rural Minnesota Concentrated Employment Program, Detroit Lakes**, to serve 56 full-time farmers who were forced out of farming, many during this year's drought. Unlike other workers, the farmers have no unemployment insurance to aid their search for a new way of life. Farmers participating in the project lack savings or other investments. The project targets those who live in the following counties: Becker, Clay, Crow Wing, Douglas, Grant, Mahanomen, Morrison, Otter Tail, Pope, Stevens, Todd, Traverse, Wadena and Wilkin.

Murder: Minnesota style

Murder in Minnesota is a treasury of vintage crimes. Characters, some famous, some obscure, come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$5.95.

Robber and Hero On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, \$5.95.

Secrets of the Congdon Mansion The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, \$4.95.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155, (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Human Services Laws and Rules

Human Services Laws 1987

An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. \$21.00

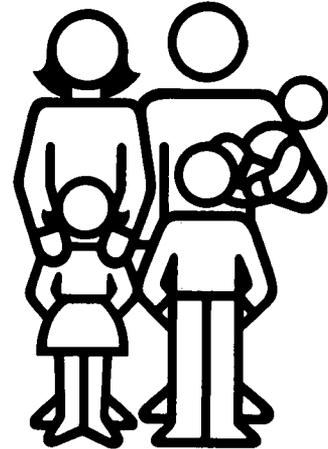
Human Services Rules as in effect July 7, 1986

Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. \$24.95.

Human Services Rules Supplement 1987. Includes recent changes to many rules in effect from July 1986 through January 1987. Code #3-95s1, \$14.00.

3 ring binder. 2" capacity. 1 required for each of above listed publications. Code No. 10-21. \$4.25.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.



Woodworking for Wildlife

Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, \$3.95.

Help Minnesota's Wildlife, feed the birds and give to the Nongame Wildlife Checkoff on your Minnesota Tax Forms. Poster. 22" x 17", full color. Code #9-2, \$4.00.

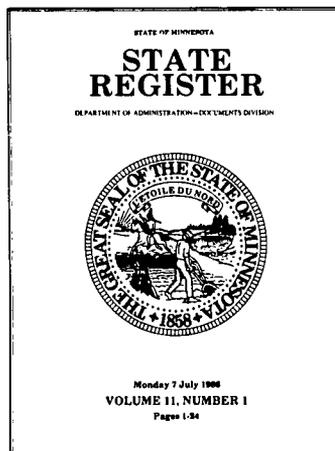
Fifty Birds of Town and City, describes the activities and habitats of these birds commonly seen today through full color paintings, Hardbound. 50 pp. Code #16-23, \$7.50.

Mammals of Minnesota, discusses wild mammals that inhabit Minnesota today, or in the recent past. Tells how to identify them, their distribution in the state, and their natural history. U of M Press, 1977, illustrated, index, bibliography, paperbound, 290 pp. Code #19-35; \$15.95.

Bird Portraits in Color, a total of 295 species of birds are depicted through magnificent illustrations, reproduced in seven-color lithography, accompanied by authoritative information about birds' activities, habitats, songs, and other characteristics, U of M Press, 1980, index, 92 color plates, hardbound. Code #19-41, \$12.95.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.



We want you to have our business—\$1 billion annually

Each year over \$1 billion in state contracts are awarded. About \$20 million in state contracts per week are advertised in the **State Register**, the most complete listing of state contracts available. Just a *sampling* of contracts includes, consulting services, professional services, technical services, commodities, equipment, supplies, and a wide variety of special services.

For 50¢ a day, the price of a **Wall Street Journal**, we will deliver to your office the most effective and economical means of tracking state contracts. The smart way to stay in the know, and land the business of state government, is with the **State Register**.

Come blizzard, tornado, flood or earthquake—you'll find important and valuable information for your business you won't find anywhere else. Every Monday, 52 times a year, the **State Register** publishes the most thorough listing of state contracts, and is the only source of state agency rulemaking activity, plus important tax court decisions, official notices, executive orders of the governor, supreme court decisions, and a calendar of scheduled cases to which you can add your "friend of the court" questions.

Could you hire someone to bring all this information to you and your company for so little money? Let us bring you the business of state government. Subscribe to the **State Register** today, or call 296-4273 for more information.

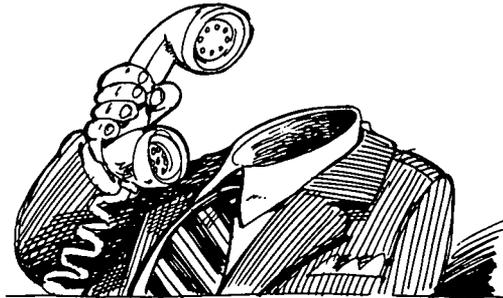
An annual subscription is \$130 and a 13-week trial subscription is \$40. MasterCard/VISA orders can be taken over the phone, otherwise prepayment is required. Send your orders to the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Ever called this guy?

1988 & 1989 State of Minnesota Telephone Directory. Get a direct line to the persons you want to speak to. Contains names, numbers, and agencies in the executive, legislative and judicial branches of state government. Four sections give listings alphabetically by name, agency, Minnesota region, plus an index for cross referencing. Over 250 pages, paperback, 8½"x11". Code #1-87, \$10.95

U.S. Government Manual 1987-88. Contains comprehensive information on federal agencies of the legislative, judicial and executive branches of government. Each agency description includes address, phone number, a list of principal officials, a summary of each agency's purpose and programs and activities. Paperback 940 pages with appendices and index. Code #16-46. \$20.00



TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "Documents." Make checks payable to the State of Minnesota. Please include 6% sales tax, and \$1.50 for postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Department of Commerce Regulated Profession Publications

Banking Laws 1986. Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76 \$29.95

Business and Nonprofit Corporation Act 1987. Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 80B, 302A, 317. Code #2-87 \$10.00

Fair Labor Standards Act 1987. Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 \$5.00

Insurance Laws 1987. A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1, \$20.00

Insurance Rules 1987. Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1 \$15.00

Notary Public Laws 1987. Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 \$4.00

Real Estate Laws 1987. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 \$6.00

Real Estate Rules 1987. Contains all education and licensing requirements for agents. Chapters 2800, 2805, and 2810. Code #3-99 \$8.00

Securities Laws 1987. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 \$6.00

Securities Rules 1987. Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 \$13.00

Banking Rules 1987. New rules are expected in early fall '87. Call then for more information. Code #3-81, \$6.00

Uniform Commercial Code 1986. Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 \$10.00

Mailing Lists. All kinds available. A catalog will be available in late summer '87. Call to receive a copy. (612) 297-2552 or 296-0930.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Pheasants in Minnesota

Pheasants in Minnesota, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, \$5.95.

Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, \$3.95.



TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Code No.	Quantity	Description	Item Price	Total
Name or Company			Subtotal	
Attention			Plus 6% tax MN Residents Only	
Address				
City		State	Zip	Postage/Handling (per order) \$1.50
VISA/MasterCard No. or Cust. Deposit No.			TOTAL	
Signature		Expiration Date	Telephone (During Day)	

TO ORDER:
Complete attached order blank. Include either your VISA/MasterCard number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your VISA/MasterCard or if you have a customer deposit account. Please include a phone number where you can be reached during the day in case we have questions about your order. Please include 6% sales tax and \$1.50 postage and handling.
PREPAYMENT REQUIRED.
Merchandise may be returned at \$1.50 restocking charge, if it is in resalable condition.
NOTE: State Register and other subscriptions do not require sales tax or postage and handling fees. Prices subject to change without notice.
Please allow about 6 weeks for delivery. In a hurry? Stop by our Bookstore. Bookstore Hours 8:00-4:30 M-F

Send your order to:
Minnesota Documents Division
117 University Ave., St. Paul, MN 55155
Metro area 612-297-3000
In Minnesota, toll free 1-800-652-9747

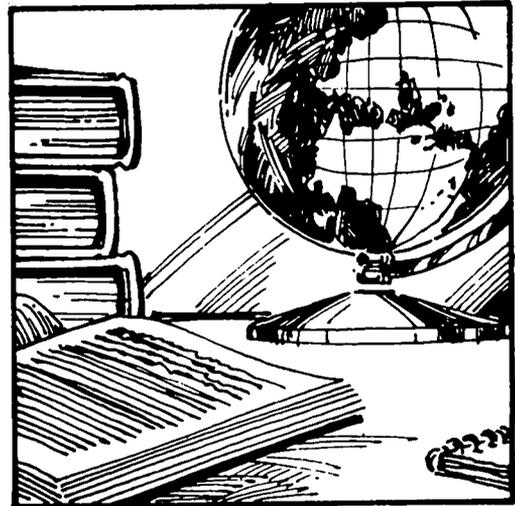
Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1987. Minnesota Rules Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74. \$7.00 plus tax.

Education Directory 1987-88. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93, \$6.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut red tape for easy and fast service from state agencies. Its 640 pages guide you through license requirements, forms, fees, reports, services, grants, and more. Provides hundreds of addresses, phones and agency descriptions. Code #1-4, \$15.00 plus tax.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Good Business Decisions are Made with Good Information

Minnesota Manufacturer's Directory. More than 7,000 entries that include name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$73.00 plus tax.

Business and NonProfit Corporation Act 1987. A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 80B, 302, 302A and 317. Code #2-87, \$10.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4. \$15.00 plus tax.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Documents Division

Publications, Services, Subscriptions

Order Form on Back—For Information, Call 297-3000

NEW PUBLICATIONS:

1988-89 State of Minnesota Telephone Directory. A compilation of state legislative, judicial and executive offices, and agency addresses, phone numbers, and employees. Sections include alphabetical employee listing, agency classified listing, Greater Minnesota and index listings. Over 250 pages. Stock #1-87. \$10.95 plus tax.

Pharmacy Rules 1988. Governs the licensing and operation of pharmacists and pharmacies. Also includes rules for licensing manufacturers and wholesalers, continuing education for pharmacists, internships, the handling of controlled substances and radioactive drugs, and disciplinary proceedings. Stock #3-67. \$6.00 plus tax.

Health Care Facilities Directory 1988. A list of hospitals and related institutions licensed and/or certified to deliver various levels of care. The list is alphabetical by county, town and facility name. Stock #1-89. \$16.00.

Landscaping for Wildlife. Attract songbirds, deer, butterflies, hummingbirds, pheasants, and other wildlife to your property by using the tips in this 144-page, 4-color book. Stock #9-15, \$6.95 plus tax. See "Special Set Offer" below.

Woodworking for Wildlife. Carefully illustrated with a variety of game bird and mammal box designs, including maintenance requirements and important tips on placement of nests in proper habitat areas. 47 pages with diagrams. Stock #9-14, \$3.95 plus tax. See "Special Set Offer" below.

"Special Set Offer." Save 10% by purchasing the two books together on wildlife mentioned above. Stock #9-20, \$9.95 plus tax.

Occupational Safety & Health Rules 1987. State standards for safe working conditions including personal protective equipment, walking and working surfaces, illumination and ventilation. Stock #3-18, \$10.00 plus tax.

"Seat Belts Fastened?" Sign. Safety reminder for work, church, club or home, this 12"x18" aluminum sign with black letters on white background features a seat belt "buckle-up" graphic. Stock #19-21, \$16.00.

OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. \$12.95 plus tax.

Minnesota's Geology. The fascinating story of Minnesota's geologic development, from early Precambrian to Quaternary Periods and the state's mineral resources. Stock #19-80. \$18.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. \$3.50 plus tax.

1987 Laws of Minnesota: Laws of the 1987 legislative session, Code #18-5. \$42.50 per set.

1987 Minnesota Rules: Rules of the 75 state agencies authorized to establish rules of conduct and procedure. Code 18-300. \$160 plus \$9.60 sales tax per 11-volume set.

Minnesota Rules 1988 Supplement Number 1. Updates *Minnesota Rules 1987* and is part of the subscription service for that 11-volume set of administrative rules. A second supplement will be available in December 1988.

Motor Vehicle Traffic Laws 1987. Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code #2-85, \$13.00 plus tax.

Criminal Code and Selected Statutes 1987. Governs the conduct of peace officers, continuing education requirements for officers, prison sentences and more. Code #2-68, \$15.00 plus tax.

Education Rules. Rules of the State Board of Education governing state aid, vocational education, handicapped students, teacher certificates and much more. Code #3-28, \$19.00 plus tax.

Fishes of the Minnesota Region: An authoritative guide to the 148 kinds of fish found in Minnesota's waters, the book is a resource for identification and distribution of fish, and features color photographs. Code #19-44, \$12.95, plus tax.

American Flag. Perfect for home or office. 3' x 5' with embroidered stars. Heavy nylon bunting. Code No. 6-1. \$21.00, plus tax.

SUBSCRIPTIONS:

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription \$130; Trial Subscription (13 weeks) \$40.00; Single copies \$3.50.

Workers Compensation Decisions. Volume 40. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription. \$105.00.

SERVICES:

Mailing Lists. Lists of Minnesota licensed professionals and permit holders. Write or call (612) 297-2552 for a free mailing list catalog which contains available lists, selections, formats, pricing and ordering information.

1988 Lake Map Index. Listing over 4,000 lake maps. Free.

Minnesota State Documents Center 1988 Catalog. Lists publications available through Minnesota Documents Center. Free.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo. \$6.50 plus 39¢ tax.

