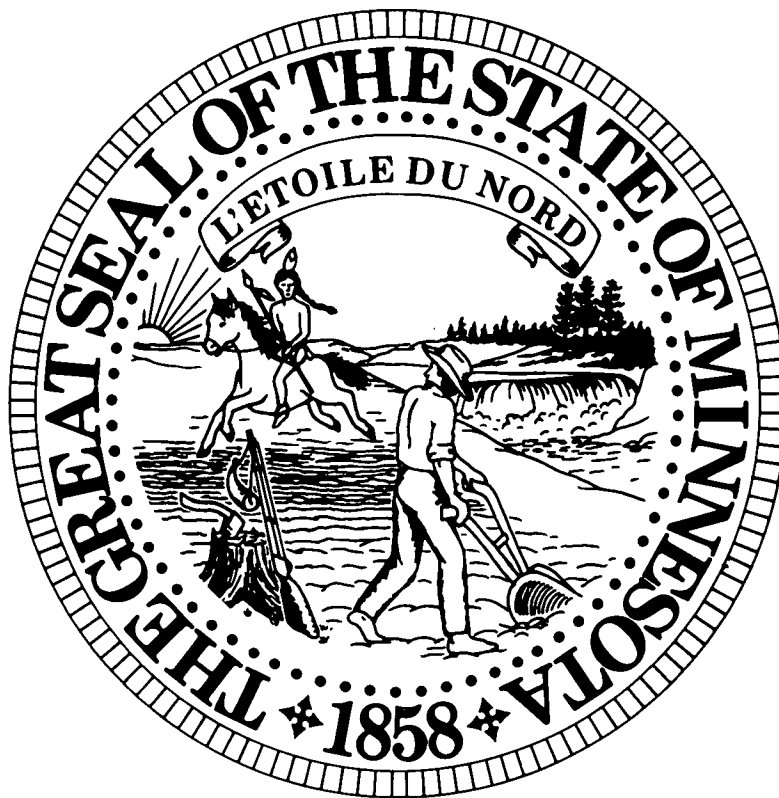


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State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

9 October 1989

Volume 14, Number 15

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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 and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
15	Monday 25 September	Monday 2 October	Monday 9 October
16	Monday 2 October	Monday 9 October	Monday 16 October
17	Monday 9 October	Monday 16 October	Monday 23 October
18	Monday 16 October	Monday 23 October	Monday 30 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 every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs \$130.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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
Print Communications Division
Robin PanLener, Editor

Paul Hoffman, Assistant Editor
Debbie George, 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

Minnesota Rules: Amendments & Additions

Issues 14-15 inclusive (issues #1-13 appeared in #13) . . . 940

Statement of Ownership, Management and Circulation 941

Proposed Rules

Commerce Department

Modified guaranteed annuities 942
Amendments to modified guaranteed annuities rules 947

Veterans Affairs Department

Veterans homes admissions, discharges, cost of care calculations, and maintenance charges 948

Adopted Rules

Pollution Control Agency

Hazardous waste 976

Public Utilities Commission

Purchase gas adjustment charges 977

Official Notices

Health Department

Completed application and hearing notice for license application of County Emergency Medical Services, Fertile, Minnesota 978

Public Safety Department

Opinion sought for rules on one call notification system, reporting requirements, enforcement and sanctions, drug testing, and training requirements 979

Public Service Department

Correction of notice of extension of deadline 979
Opinion sought for rule on residential thermal insulation standards 979

Secretary of State

Vacancies in multi-member agencies 980

Trade & Economic Development Department

Performance evaluation report available to the public on the 1989 Small Cities Development Program 982

Transportation Department

Amended order and notice of street and highway routes designated and permitted to carry the gross weights allowed 982

Vocational Training Education Board

Opinion sought on rules for licensure of postsecondary technical education personnel 983

State Contracts & Advertised Bids

Administration Department

Materials Management Division: Commodities and requisitions open for bid 983

Print Communications Division: Printing, typesetting, mailing and related services open for bid 985

Professional, Technical and Consulting Contracts

Administration Department

Proposals sought for information architecture curriculum consulting services 987

Corrections Department

Proposals sought for primary care physician services 987

State Designer Selection Board

Proposals sought from design firms for three building projects, two at Mankato State University and one at the University of Minnesota-Waseca 987

Governor's Planning Council on Developmental Disabilities

Proposals sought for evaluation of grants and technical assistance to grant recipients 992

Health Department

Proposals sought for continuing education assistance with nursing child assessment training 992

Minnesota Historical Society

Contract available for photo documentation services 993

Human Services Department

Proposals sought for statewide media campaign promoting early prenatal care 993

Jobs & Training Department

Proposals sought for discriminatory testing program 995

Transportation Department

Contract available to conduct a study of the impact of insurance availability and cost on volunteer drivers and transportation programs 995

Contract available to develop a statewide drug free transit program 996

Contract available for photogrammetric services 996

Supreme Court Decisions

Decisions, Opinions and Orders filed
Friday 6 October 1989 996

Announcements 997

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 Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

Issues 14 & 15 (Issues 1-13 in #13)

Rural Finance Authority

1650.0010-.0070 (adopted)	906
1651.0010-.0100 (adopted)	906

Commerce Department

2751.0100-.1200 (proposed)	942
2751.1300 (proposed amendments)	947

Health Department

4685.0100;.0805;.0815;.0900;.0905;.0910;.0915;.0925; .0930;.0935;.0940;.0950;.1910;.1940;.1950;.1980; .2100;.2250;.3000 (adopted)	901
4685.3300 s.1, 2, 4, and 5 (repealed)	901
4685.0100;.1100;.1105;.1110;.1115;.1120;.1125;.1130; .1700;.1900;.2100 (adopted)	903
4685.1800 (repealed)	903

Pollution Control Agency

7001.0650;7045.0065;.0125;.0371 (adopted)	976
7005.5010;.5015;.5020;.5025;.5030;.5035;.5040;.5045; .5050;.5055;.5060;.5065;.5070;.5075;.5080;.5085; .5090;.5095;.5100;.5105 (adopted)	905

Public Utilities Commission

7825.2390;.2400;.2500;.2600;.2700;.2800;.2810;.2830;.2900; .2910;.2920 (adopted)	977
7825.2400 s.6, 14;.2900 s.2, 3, 4;.3000 (repealed)	977

Veterans Department

9050.0010-.0900 (proposed)	948
----------------------------------	-----

Human Services Department

9500.1272 (proposed)	892
----------------------------	-----

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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. 29, 1989
3. FREQUENCY OF ISSUE Weekly		3A. NO. OF ISSUES PUBLISHED ANNUALLY 52 + Index		3B. ANNUAL SUBSCRIPTION PRICE \$130.00
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6. FULL NAMES AND COMPLETE MAILING ADDRESS OF PUBLISHER, EDITOR, AND MANAGING EDITOR (This item MUST NOT be blank)				
PUBLISHER (Name and Complete Mailing Address) State of Minnesota, Department of Administration, Print Communications Division 117 University Avenue, Saint Paul, Minnesota 55155				
EDITOR (Name and Complete Mailing Address) Robin PanLener, State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, Saint Paul, Minnesota 55155				
MANAGING EDITOR (Name and Complete Mailing Address)				
7. OWNER (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.)				
FULL NAME		COMPLETE MAILING ADDRESS		
State of Minnesota		117 University Avenue		
Department of Administration		Saint Paul, Minnesota 55155		
Print Communications 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 (If there are none, so state)				
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9. FOR COMPLETION BY NONPROFIT ORGANIZATIONS AUTHORIZED TO MAIL AT SPECIAL RATES (Section 423.12 DMM only) The purpose, function, and nonprofit status of this organization and the exempt status for Federal income tax purposes (Check one)				
<input checked="" type="checkbox"/> (1) HAS NOT CHANGED DURING PRECEDING 12 MONTHS		<input type="checkbox"/> (2) HAS CHANGED DURING PRECEDING 12 MONTHS		(If changed, publisher must submit explanation of change with this statement.)
10. EXTENT AND NATURE OF CIRCULATION (See instructions on reverse side)		AVERAGE NO. COPIES EACH ISSUE DURING PRECEDING 12 MONTHS	ACTUAL NO. COPIES OF SINGLE ISSUE PUBLISHED NEAREST TO FILING DATE	
A. TOTAL NO. COPIES (Net Press Run)		1,120	1,225	
B. PAID AND/OR REQUESTED CIRCULATION		24	71	
1. Sales through dealers and carriers, street vendors and counter sales				
2. Mail Subscription (Paid and/or requested)		892	928	
C. TOTAL PAID AND/OR REQUESTED CIRCULATION (Sum of 10B1 and 10B2)		916	999	
D. FREE DISTRIBUTION BY MAIL, CARRIER OR OTHER MEANS SAMPLES, COMPLIMENTARY, AND OTHER FREE COPIES		124	124	
E. TOTAL DISTRIBUTION (Sum of C and D)		1,040	1,123	
F. COPIES NOT DISTRIBUTED		80	102	
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2. Return from News Agents		0	0	
G. TOTAL (Sum of E, F1 and 2--should equal net press run shown in A)		1,120	1,225	
11. I certify that the statements made by me above are correct and complete		SIGNATURE AND TITLE OF EDITOR, PUBLISHER, BUSINESS MANAGER, OR OWNER <i>Deborah A. George</i>		

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.

Department of Commerce

Proposed Permanent Rules Relating to Modified Guaranteed Annuities

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 61A.20.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules 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.

Any person may make a written request for a public hearing within the 30 days 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 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 Department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

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

Patricia L. Peterson
Director of Registration
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2284

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 rules has been prepared and is available upon request from Patricia Peterson.

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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 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 Patricia Peterson.

A prior notice of intent to adopt these rules was published in the *Minnesota State Register* on July 10, 1989 (Cite 14 S.R. 45). That notice included the full text of the proposed rules. The proposed rules published on July 10, 1989, have been modified and the modifications are a substantial change in the proposed language. A copy of the proposed modifications to the proposed rules is attached to this notice.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)**2751.0100 PURPOSE.**

This chapter regulates modified guaranteed annuities, a new form of variable annuity, the assets of which are placed in a separate account.

2751.0200 AUTHORITY.

This chapter is adopted pursuant to the authority granted to the commissioner of the Department of Commerce in *Minnesota Statutes*, section 61A.20.

2751.0300 APPLICABILITY AND SCOPE.

This chapter applies to:

- A. the qualifications of agents to be authorized to sell modified guaranteed annuity contracts in this state;
- B. the qualification of insurers to be authorized to issue these contracts;
- C. the required contract form and provisions for issuance of this coverage in this state; and
- D. the manner in which separate account assets, supporting these contracts, are to be maintained and reported.

2751.0400 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce of the state of Minnesota.

Subp. 3. **Interest credits.** "Interest credits" means all interest that is credited to the contract.

Subp. 4. **Modified guaranteed annuity.** "Modified guaranteed annuity" is a deferred annuity contract, the underlying assets of which are held in a separate account, and the values of which are guaranteed if held for specified periods. The annuity contains nonforfeiture values based upon a market-value adjustment formula if held for shorter periods. This formula may, or may not, reflect the value of assets held in a separate account during the period, or periods, when the contract holder can surrender the contract.

Subp. 5. **NAIC.** "NAIC" means the National Association of Insurance Commissioners.

Subp. 6. **Separate account.** "Separate account" means a separate account established pursuant to *Minnesota Statutes*, sections 61A.13 to 61A.21 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

2751.0500 AUTHORITY OF INSURERS.

Subpart 1. **Application.** The following requirements in this part apply to all insurers seeking authority to issue modified guaranteed annuities in this state.

Subp. 2. **Licensing and approval to do business.** No company shall deliver or issue for delivery modified guaranteed annuities within this state unless it is licensed or organized to do a life insurance or annuity business in their state pursuant to *Minnesota Statutes*, section 60A.07, and the commissioner is satisfied that its condition or method of operation in connection with the issuance of these contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things the history and financial condition of the company; the character, responsibility, and fitness of the officers and directors of the company; and the law and regulation under which the company is authorized in the state of domicile to issue these annuities.

If the company is a subsidiary of an admitted life insurance company, or affiliated with the company by common management or ownership, it may be considered by the commissioner to have satisfied the requirements of this subpart, if either it or the admitted life company satisfies the requirements of this subpart. Companies licensed and having a satisfactory record of doing business in this state for a period of at least three years may be considered by the commissioner to have satisfied the requirements of this subpart.

Before any company delivers or issues for delivery modified guaranteed annuities within this state, it shall submit to the commissioner a general description of the kinds of these annuities it intends to issue; if requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue these annuities; and if requested by the commissioner, biographical data with respect to officers and directors of the company on the NAIC uniform biographical data form.

Subp. 3. **Use of sales materials.** An insurer authorized to transact modified guaranteed annuity business in this state shall not use

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

any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its modified guaranteed annuity business in this state that is false, misleading, deceptive, or inaccurate.

Illustrations of benefits payable under any modified guaranteed annuity shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Hypothetical assumed interest credits may be used to illustrate possible levels of benefits.

Before any insurer delivers or issues for delivery any modified guaranteed annuity contract in this state, the commissioner may require the filing of a copy of any prospectus or other sales material to be used in connection with the marketing of that insurer's modified guaranty annuity contract. The sales material must clearly illustrate that there can be both upward and downward adjustments due to the application of the market value adjustment formula in determining nonforfeiture benefits.

Subp. 4. **Reports.** An insurer authorized to transact the business of modified guaranteed annuities in this state shall submit to the commissioner:

- A. a separate account annual statement that includes the business of its modified guaranteed annuities; and
- B. additional information concerning its modified guaranteed annuity operations or separate accounts the commissioner considers necessary.

Subp. 5. **Authority of commissioner to disapprove.** Any material required to be filed with and approved by the commissioner shall be disapproved by the commissioner if the commissioner finds that it does not comply with the standards established by this chapter.

2751.0600 FILING OF CONTRACTS.

The filing requirements applicable to modified guaranteed annuities are those filing requirements otherwise applicable under existing statutes and rules of this state with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate. Filings shall include a demonstration in a form satisfactory to the commissioner that the nonforfeiture provisions of the contract comply with part 2751.0700, subpart 1.

2751.0700 CONTRACT REQUIREMENTS.

Subpart 1. **Mandatory contract benefit and design requirements.** The following benefit and design requirements apply to a modified guaranteed annuity contract delivered or issued for delivery in this state:

A. The contract must contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of nonforfeiture benefits.

B. If the contract calls for the payment of periodic stipulated payments, it must contain in substance the following provisions:

(1) a provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any payment received during the period of grace shall be applied to produce the values under the contract arising therefrom; and

(2) a provision that, at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover these overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

C. The market-value adjustment formula, used in determining nonforfeiture benefits, must be stated in the contract, and must be applicable for both upward and downward adjustments. When a contract is filed, it must be accompanied by an actuarial statement indicating the basis for the market-value adjustment formula and that the formula provides reasonable equity to both the contract holder and the insurance company.

D. If and to the extent so provided under the applicable contracts, that portion of the assets of any separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

E. The application for a modified guaranteed annuity shall prominently set forth immediately preceding the signature line, language denoting that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the contract.

Subp. 2. **Nonforfeiture benefits.** The following nonforfeiture benefit requirements apply to a modified guaranteed annuity contract delivered or issued for delivery in this state:

- A. This subpart does not apply to any:

(1) reinsurance;

(2) group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers, including partnerships or sole proprietorships, employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the *Internal Revenue Code of 1986*, as amended through December 31, 1988;

(3) premium deposit fund;

(4) deferred annuity contract after annuity payments have commenced;

(5) reversionary annuity; or

(6) contract which is to be delivered outside this state through an agent or other representative of the company issuing this contract.

B. The contract must contain in substance the provisions of subitems (1) and (2).

(1) Upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan described in the contract that complies with item E. The description will include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit as described in the contract that complies with item F. The contract may provide that the insurer may defer payment of the cash surrender benefit for a period of six months after demand.

C. The minimum values as specified in this part of any paid-up annuity, cash surrender, or death benefits available under a modified guaranteed annuity contract must be based upon nonforfeiture amounts meeting the requirements of this item.

The unadjusted minimum nonforfeiture amount on any data prior to the annuity commencement date must be an amount equal to the percentages of net considerations, as specified in item D, increased by the interest credits allocated to the percentage of net considerations, which shall be reduced to reflect the effect of the following:

(1) any partial withdrawals from or partial surrender of the contract;

(2) the amount of any indebtedness on the contract, including interest due and accrued;

(3) an annual contract charge not less than zero and equal to (a) the lesser of \$30 and two percent of the end of year contract value less (b) the amount of any annual contract charge deducted from any gross considerations credited to the contract during the contract year; and

(4) a transaction charge of \$10 for each transfer to another investment division within the same contract.

The minimum nonforfeiture amount shall be the unadjusted minimum nonforfeiture amount adjusted by the market-value adjustment formula contained in the contract.

The annual contract charge of \$30 and the transaction charge of \$10 referenced will be adjusted to reflect changes in the consumer price index for all urban consumers (CPI-U) in accordance with item D. The CPI-U is published by the Bureau of Labor Statistics, United States Department of Labor, and is incorporated by reference. It is subject to frequent change and is available from the Minitex interlibrary loan system.

Guaranteed interest credits in each year of any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

D. The percentages of net considerations used to define the minimum nonforfeiture amount in item C must meet the requirements of this item.

(1) With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year and less any charges for premium taxes. The percentages of net considerations shall be 65 percent for the first contract year and 87.5 percent for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65 percent of the portion of the total net consideration for any renewal

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Proposed Rules

contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65 percent.

(2) With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75 and less any charge for premium taxes. The percentage of the net consideration shall be 90 percent.

The annual contract charge of \$30, the collection charge of \$1.25 per collection, and the single consideration contract charge of \$75 referred to in this subitem, will be adjusted to reflect changes in the CPI-U in accordance with item 3.

(3) The above contract charges shall be multiplied by the ratio of (a) the CPI-U for June of the calendar year preceding the date of filing, to (b) the CPI-U for June 1979.

E. Any paid-up annuity benefit available under a modified guaranteed annuity contract shall be that its present value on the annuity commencement date is at least equal to the minimum nonforfeiture amount on that date. The present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

F. For modified guaranteed annuity contracts that provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the minimum nonforfeiture amount next computed after the request for surrender is received by the insurer. The death benefit under the contracts shall be at least equal to the cash surrender benefit.

G. Any modified guaranteed annuity contract that does not provide cash surrender benefits, or does not provide death benefits at least equal to the minimum nonforfeiture amount, prior to the annuity commencement date shall include a statement in a prominent place in the contract that these benefits are not provided.

H. Notwithstanding the requirements of this part, a modified guaranteed annuity contract may provide under the situations specified below that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount, and by this payment be released of any further obligation under the contract:

(1) if at the time the annuity becomes payable, the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount is less than \$2,000, or would provide an income the initial amount of which is less than \$20 per month; or

(2) if before the time the annuity becomes payable under a periodic payment contract no considerations have been received under the contract for a period of two full years and both (a) the total considerations paid before the period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, and (b) the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount is less than \$2,000.

I. For any modified guaranteed annuity contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of item B, additional benefits payable:

(a) in the event of total and permanent disability;

(b) as reversionary annuity or deferred reversionary annuity benefits; or

(c) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this part. The inclusion of additional benefits is not required in any paid-up benefits, unless additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

2751.0800 RESERVE LIABILITIES.

Reserve liabilities for modified guaranteed annuities shall be established in accordance with actuarial procedures that recognize:

A. that assets of the separate account are based on market values;

B. the variable nature of benefits provided; and

C. any mortality guarantees.

As a minimum, the separate account liability will equal the surrender value based upon the market-value adjustment formula contained in the contract. If that liability is greater than the market value of the assets, a transfer of assets will be made into the separate account so that the market value of the assets at least equals that of the liabilities. Also, any additional reserve that is needed to cover future guaranteed benefits will also be set up by the valuation actuary.

The market-value adjustment formula, the interest guarantee, and the degree to which projected cash flow of assets and liabilities are matched must also be considered. Each year, the valuation actuary must provide an opinion on whether the assets in the separate account are adequate to provide all future benefits that are guaranteed.

2751.0900 SEPARATE ACCOUNTS.

Subpart 1. **Establishment and administration.** Any domestic insurer issuing modified guaranteed annuities shall establish one or more separate accounts pursuant to *Minnesota Statutes*, section 61A.14.

Subp. 2. **Amounts.** The insurer shall maintain in each separate account assets with a market or other value meeting the standards set out in *Minnesota Statutes*, section 61A.14, at least equal to the valuation reserves and other contract liabilities respecting such account.

Subp. 3. **Valuation of assets.** Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value, or pursuant to standards contained in *Minnesota Statutes*, section 61A.14.

Subp. 4. **Applicability of other laws.** Unless otherwise approved by the commissioner, separate accounts relating to modified guaranteed annuities will be subject to investment laws applicable to the insurer's general asset account.

2751.1000 REPORTS TO POLICYHOLDERS.

Companies shall annually provide their contract holders with a report showing both the account value and the cash surrender value. The report must clearly indicate that the account value is prior to the application of any surrender charges or market value adjustment formula. It must also specify the surrender charge and market value adjustment used to determine the cash surrender value.

2751.1100 FOREIGN COMPANIES.

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by this chapter, the commissioner to the extent the commissioner considers appropriate may consider compliance with that law or regulation as compliance with this chapter.

2751.1200 AUTHORIZATION OF AGENTS.

No person, corporation, partnership, or other legal entity may sell or offer for sale in this state any modified guaranteed annuity contract unless licensed to sell variable annuities under the insurance laws of this state.

Department of Commerce

Proposed Amendments to Proposed Permanent Rules Relating to Modified Guaranteed Annuities

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 61A.20.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules 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.

Any person may make a written request for a public hearing within the 30 days 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 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 Department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

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

Patricia L. Peterson	500 Metro Square Building
Director of Registration	St. Paul, Minnesota 55101
Department of Commerce	(612) 296-2284

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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 rules has been prepared and is available upon request from Patricia Peterson.

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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 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 Patricia Peterson.

A prior notice of intent to adopt these rules was published in the *Minnesota State Register* on July 10, 1989 (Cite 14 S.R. 45). That notice included the full text of the proposed rules. The proposed rules published on July 10, 1989, have been modified and the modifications are a substantial change in the proposed language. A copy of the proposed modifications to the proposed rules is attached to this notice.

Michael A. Hatch
Commissioner of Commerce

Rules as Amended

2751.0100 to 2751.1200 [See *State Register*, Volume 14, Number 2, pages 45 to 50.]

2751.1300 RESTRICTION ON ISSUANCE.

Notwithstanding parts 2751.0100 to part 2751.1200, no modified guaranteed annuity shall be issued to any Minnesota resident. The commissioner may by order authorize the sale of modified guaranteed annuities to Minnesota residents if the commissioner determines that the order is in the public interest.

Department of Veterans Affairs

Minnesota Veterans Homes Board

Proposed Permanent Rules Relating to Veterans Homes Admissions, Discharges, Cost of Care Calculations, and Maintenance Charges

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 Minnesota Veterans Homes Boards 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 contained in *Minnesota Statutes*, section 198.003 (1988), as amended by *Laws of Minnesota, 1989*, Chapter 84.

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 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30 DAY COMMENT PERIOD, A HEARING WILL BE HELD ON DECEMBER 5, 1989, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARINGS ON THESE SAME RULES PUBLISHED IN THE *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE MINNESOTA VETERANS HOMES BOARD. To verify whether a hearing will be held, please call the Minnesota Veterans Homes Board between December 5 and December 7, 1989 at 612-721-0602.

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

Robert Klukas
Minnesota Veterans Homes Board
5101 Minnehaha Avenue South
Mpls., Mn 55417

Comments or requests for a public hearing must be received by the Minnesota Veterans Homes Board by 4:30 p.m. on November 8, 1989.

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:

Robert Klukas
Minnesota Veterans Homes Board
5101 Minnehaha Avenue South
Mpls., Mn 55417

Minnesota Rules, Parts 9050.0010 to 9050.0900 govern admissions, discharge, transfer, utilization and compliance review, cost of care calculations and maintenance charges. 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:

Robert Klukas
Minnesota Veterans Homes Board
5101 Minnehaha Avenue South
Mpls., Mn 55417

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.

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 form relates to legality. Any person may request notification of the date of 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:

Robert Klukas
Minnesota Veterans Home Board
5101 Minnehaha Avenue South
Mpls. Mn 55417

Richard Zierdt
Executive Director
Minnesota Veterans Homes Board

Rules as Proposed (all new material)

9050.0010 SCOPE.

Chapter 9050 applies to all veterans homes facilities presently owned or controlled by the state of Minnesota and operated by the Minnesota Veterans Homes Board, to all facilities that are or may be developed in the future for ownership or control by the state of Minnesota and operation by the Minnesota Veterans Homes Board, and to all individuals residing in or conducting activities in the facilities unless otherwise indicated.

9050.0020 APPLICABILITY.

Parts 9050.0010 to 9050.0900 govern the operation of the Minnesota veterans homes and establish the standards used to determine:

- A. an applicant's eligibility and suitability for admission to a board-operated facility;
- B. a resident's eligibility for participation in programs at a board-operated facility;

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Proposed Rules

- C. appropriateness of a resident's continued care in a board-operated facility;
- D. services to be provided in connection with residence in a board-operated facility;
- E. procedures to be used in effecting admissions and discharges;
- F. standards of resident care and conduct; and
- G. charges to be paid by or on behalf of a resident for care in the home.

Parts 9050.0010 to 9050.0900 must be interpreted to give effect to *Minnesota Statutes*, chapters 196, 197, and 198.

9050.0030 COMPLIANCE WITH STATUTES, RULES, AND CODES.

The Minnesota Veterans Homes Board shall ensure compliance by the facility and staff with applicable statutes, with applicable rules of the Minnesota Department of Health and the Minnesota Department of Human Services, and with applicable health, safety, sanitation, building, zoning, and operations codes, including the following:

- A. Minnesota Department of Health licensure and operations requirements in chapters 4655 and 4660 and *Minnesota Statutes*, sections 144.50 to 144.56 and 144A.02 to 144A.10;
- B. chapter 4605 about communicable diseases;
- C. chapter 4620 about clean indoor air;
- D. chapter 4638 governing health care facilities generally;
- E. chapter 4642 about medical records;
- F. the fire code in chapter 7510 and *Minnesota Statutes*, section 299F.011;
- G. the Department of Labor and Industry safety code in chapter 5205;
- H. the building code in chapters 1300 to 1365 and *Minnesota Statutes*, section 16B.59;
- I. the plumbing code in parts 4715.0100 to 4715.6000 and *Minnesota Statutes*, sections 326.37 to 326.45;
- J. the vulnerable adults act in parts 9555.7100 to 9555.7700 and *Minnesota Statutes*, section 626.557;
- K. the health care facilities grievance provisions in *Minnesota Statutes*, sections 144A.51 to 144A.53; and
- L. the patient's bill of rights in *Minnesota Statutes*, section 144.651 and the complaint and resident's rights provisions of *Minnesota Statutes*, section 144A.13.

9050.0040 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 9050.0010 to 9050.0900.

Subp. 2. **Absence with notice; absence without notice.** "Absence with notice" or "absence without notice" means when a resident removes himself or herself from the particular area or level of care specified in the individual care plan with or without informing the Minnesota veterans home facility administration or staff of departure, intended destination, and anticipated return.

Subp. 3. **Administrator.** "Administrator" has the meaning given it in *Minnesota Statutes*, section 198.001, subdivision 4.

Subp. 4. **Admission.** "Admission" means the act that allows an eligible applicant to officially enter a Minnesota veterans home facility as a resident.

Subp. 5. **Admissions agreement.** "Admissions agreement" means a written contract entered into by the resident or the resident's legal representative or spouse, if any, or both, and the board or its designated representative at the time of admission of the resident to a board-operated facility. The agreement must:

- A. identify the service obligations of the facility with respect to the resident, as determined by the board according to licensure requirements and applicable statutes and rules, as specified in part 9050.0030;
- B. identify the responsibilities of the resident with respect to the facility and other residents; and
- C. if applicable, detail the amount to be paid as maintenance charge by or on behalf of a resident toward the cost of care, subject to a change in financial status of the person responsible for payment.

The agreement must be signed by the person responsible for paying any charges.

Subp. 6. **Against medical advice.** "Against medical advice" means a resident has left the particular area or level of care at the Minnesota veterans home facility or campus specified in the individual care plan, or has chosen to terminate resident status contrary to the recommendations of the attending physician.

Subp. 7. **Annual financial status review.** "Annual financial status review" means the annual verification and assessment of income,

property, and expenses used to calculate the ability of a resident or the resident's legal representative or spouse acting on the resident's behalf, if any, to pay an amount toward the resident's cost of care.

Subp. 8. **Applicant.** "Applicant" means a person seeking admission to a board-operated facility.

Subp. 9. **Application.** "Application" means the applicant's written request for admission as provided in part 9050.0055.

Subp. 10. **Assessment.** "Assessment" means determination of an applicant's or resident's need for services by identifying the person's skills and behaviors and the environmental, physical, medical, and health factors that affect development or remediation of the person's skills and behavior.

Subp. 11. **Attending physician.** "Attending physician" means a physician licensed to practice medicine under *Minnesota Statutes*, chapter 147 who is an applicant's or resident's primary treating or supervising physician. An attending physician may be a Minnesota veterans home facility staff physician.

Subp. 12. **Basic needs.** "Basic needs" means food, clothing, shelter, utilities, personal hygiene items, and other subsistence items.

Subp. 13. **Bed change.** "Bed change" means a resident is assigned to a different bed in the same room, to another room, or to another building at the same level of care.

Subp. 14. **Bed hold.** "Bed hold" means a particular bed occupied by a Minnesota veterans home resident, or a comparable bed, that is held open for the resident during the resident's absence from a board-operated facility for medically necessary treatment at another health care facility, for a rehabilitation program, or during the resident's absence, with notice, from a board-operated facility.

Subp. 15. **Board.** "Board" means the board of directors of the Minnesota veterans homes or its designee created by *Minnesota Statutes*, section 198.022, and defined in *Minnesota Statutes*, section 198.001, subdivision 6.

Subp. 16. **Boarding care.** "Boarding care" means board, room, laundry, personal services, supervision over medication that can be safely self-administered, and a program of activities and supervision required by persons who are not able to properly care for themselves. Boarding care is the state equivalent of domiciliary care as that term is used by the United States Department of Veterans Affairs.

Subp. 17. **Boarding care facility.** "Boarding care facility" means a facility or unit of a facility licensed by the commissioner of health under chapters 4655 and 4660 and under *Minnesota Statutes*, sections 144.50 to 144.56.

Subp. 18. **Board-operated facility.** "Board-operated facility" means a building located on a Minnesota veterans home campus in which nursing care or boarding care is provided.

Subp. 19. **Business expense.** "Business expense" means the cost of producing income from a business, excluding capital expenditures and depreciation.

Subp. 20. **Campus.** "Campus" means the property owned or controlled by the state of Minnesota on which a Minnesota veterans home facility is located.

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's physical and mental condition and treatment needs. Care plan review includes:

- A. a review of the resident's reason for seeking admission and treatment;
- B. a review of the resident's diagnoses and assessments;
- C. a review of the resident's individual care plan;
- D. a review of the appropriateness, duration, and outcome of treatment and care provided at the board-operated facility; and
- E. a review of the treatment and care recommendations of the multidisciplinary staff.

Subp. 22. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances including controlled substances as defined in *Minnesota Statutes*, chapter 152.

Subp. 23. **Chemical abuse.** "Chemical abuse" has the meaning given it in part 9530.4100, subpart 5.

Subp. 24. **Chemical dependency counselor.** "Chemical dependency counselor" means a staff person who meets the qualifications in part 9530.4270, subpart 4.

Subp. 25. **Chemical dependency treatment program.** "Chemical dependency treatment program" means an in-patient, residential treatment program operated in a licensed hospital or licensed facility under parts 9530.4100 to 9530.4450.

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Proposed Rules

Subp. 26. **Chemically dependent; chemical dependency.** "Chemically dependent" or "chemical dependency" has the meaning given it in part 9530.4100, subpart 6.

Subp. 27. **Conservator.** "Conservator" has the meaning given it in *Minnesota Statutes*, section 525.539, subdivision 3.

Subp. 28. **Contract.** "Contract" means a legally enforceable agreement entered into by the board and an applicant, resident, or the resident's legal representative or spouse, if any, or a provider or by a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

Subp. 29. **Cost effective.** "Cost effective" means a result that is economical in terms of the goods and services received for the money spent, given feasible alternatives or a result in which the cost is less than the value of the benefit received.

Subp. 30. **Cost of care.** "Cost of care" means the average daily per resident cost of providing care, calculated separately for a resident of a boarding care facility or nursing home facility. The cost must be calculated according to part 9050.0500.

Subp. 31. **Dependent.** "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota or United States income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent must be allocated equally among the persons unless the persons choose another allocation.

Subp. 32. **Detoxification program.** "Detoxification program" has the meaning given it in *Minnesota Statutes*, section 254A.08, subdivision 2.

Subp. 33. **Diagnostic and Statistical Manual of Mental Disorders; DSM-MD.** "Diagnostic and Statistical Manual of Mental Disorders" or "DSM-MD" means the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD). This publication is incorporated by reference, is not subject to frequent change, and is available at the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 34. **Dietician.** "Dietician" means a dietician registered with the National Commission on Dietetic Registration.

Subp. 35. **Direct cost.** "Direct cost" has the meaning given it in part 9050.0500, subpart 2, item A.

Subp. 36. **Discharge.** "Discharge" means a termination of residence in the nursing home or boarding care home that is documented in the discharge summary signed by the attending physician. For purposes of this definition, a discharge does not include:

A. transfer or bed change within a particular nursing or boarding care home;

B. a transfer from one licensure level to another at the same Minnesota veterans home campus; or

C. an absence from the nursing home or boarding care home for hospitalization, treatment purposes, or personal reasons when the resident is expected to return to the same nursing home or boarding care home and complies with the bed hold requirements of part 9050.0150.

Subp. 37. **Earned income.** "Earned income" means compensation from lawful employment or lawful self-employment, including salaries, wages, tips, gratuities, commissions, earnings from self-employment, earned income tax credits, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, employee bonuses and profit sharing, jury duty pay, picket duty pay, and profit from other lawful activities earned by the individual's effort or labor. Earned income does not include returns from capital investment or benefits that accrue as compensation for lack of employment. Earned income must be determined according to parts 9050.0700 to 9050.0740.

Subp. 38. **Educational expenses.** "Educational expenses" means the amounts paid for a person's tuition, mandatory fees, transportation to and from school, supplies and equipment required for coursework, and child care while the person is in school or in transit.

Subp. 39. **Emergency.** "Emergency" means a life-threatening medical condition that if not immediately diagnosed and treated could cause a person serious physical or mental disability, continuation of severe pain, or death.

Subp. 40. **Equity.** "Equity" means the amount of equity in real or personal property owned by a person. Equity is determined by subtracting any outstanding encumbrances on fair market value.

Subp. 41. **Goal.** "Goal" means the desired behavioral outcome of an activity that can be observed and reliably measured by two or more independent observers.

Subp. 42. **Gross income.** "Gross income" means all earned and unearned income before any deduction, disregard, or exclusion.

Subp. 43. **Guardian.** "Guardian" has the meaning given it in *Minnesota Statutes*, section 525.539, subdivision 2.

Subp. 44. **Health care facility.** "Health care facility" means a hospital, nursing home; boarding care home, or supervised living facility licensed by the Minnesota Department of Health under *Minnesota Statutes*, sections 144.50 to 144.56 or 144A.01 to 144A.17.

Subp. 45. **Health care professional.** "Health care professional" means a licensed health professional as defined in *Minnesota Statutes*, section 144.4172, subdivision 7.

Subp. 46. **Health care service.** "Health care service" means a diagnostic, preventive, or corrective procedure provided in a health care facility, or by or under the supervision of a health care professional, or by or under the auspices of a rehabilitation program as defined in subpart 103.

Subp. 47. **Home.** "Home" has the meaning given it in *Minnesota Statutes*, section 198.001, subdivision 8.

Subp. 48. **Homestead.** "Homestead" means a dwelling owned and occupied by the applicant or resident, or that person's spouse, as a primary residence. Homestead includes the land upon which the dwelling is situated as specified in *Minnesota Statutes*, section 510.02.

Subp. 49. **Hospital.** "Hospital" means an acute care institution as defined in *Minnesota Statutes*, section 144.696, subdivision 3, and licensed under *Minnesota Statutes*, sections 144.50 to 144.58.

Subp. 50. **Hospital absence.** "Hospital absence" means an absence from a board-operated facility for medically necessary treatment in a hospital.

Subp. 51. **Household.** "Household" means the spouse of an applicant or resident and the applicant's or resident's dependent child or children living in the homestead.

Subp. 52. **Household income.** "Household income" means all income received by or on behalf of the applicant's or resident's spouse in a calendar year.

Subp. 53. **Inappropriate and harmful use.** "Inappropriate and harmful use" has the meaning given it in part 9530.4100, subpart 14.

Subp. 54. **Income.** "Income" means cash or in-kind benefits, whether earned or unearned, received by or available to an individual and not established as property under part 9050.0700, subpart 1.

Subp. 55. **Independent living; live independently.** "Independent living" or "live independently" means the situation of an individual living in his or her own dwelling and having the opportunity to control basic decisions about his or her own life to the fullest extent possible.

Subp. 56. **Independent physician.** "Independent physician" means a physician licensed to practice medicine under *Minnesota Statutes*, chapter 147, who is not the applicant's or resident's attending physician. The independent physician may be a Minnesota veterans home staff physician of a board-operated facility other than the one in which the individual in question resides.

Subp. 57. **Indirect cost.** "Indirect cost" has the meaning given it in part 9050.0500, subpart 2, item B.

Subp. 58. **Individual care plan.** "Individual care plan" means a written plan developed under part 4655.6000 for implementing and coordinating a resident's care and treatment that is developed and maintained by the multidisciplinary staff on the basis of assessment results for each resident. The purpose of the individual care plan is to integrate care, identify and meet the service needs of the resident, set treatment goals and objectives for the resident, and identify responsibilities of the multidisciplinary staff for the resident's care and treatment.

Subp. 59. **International Classification of Diseases; ICD-9-CM.** "International Classification of Diseases" or "ICD-9-CM" means the current edition of the Clinical Manual of the International Classification of Diseases, as published by the Commission on Professional and Hospital Activities, 1968 Green Road, Ann Arbor, Michigan. This publication is incorporated by reference and is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 60. **Legal availability.** "Legal availability" means a person's right under the law to secure, possess, dispose of, or control income or property.

Subp. 61. **Legal representative.** "Legal representative" means an individual acting or speaking on behalf of an applicant or resident whose authority is granted or recognized by statute and the nature and extent of that authority is defined by statute, by a court of competent jurisdiction, by other legal action, or by recognition of the United States Department of Veterans Affairs or Social Security Administration in the matter under consideration. Examples are a guardian, conservator, person with power of attorney, custodian, and representative payee.

Subp. 62. **Level of care.** "Level of care" means the licensure level of the board-operated facility in which a person lives or the case mix classification assigned to the person under parts 9549.0058, subpart 2, and 9549.0059.

Subp. 63. **Level of care change.** "Level of care change" means movement of a resident from one level of care to another within a board-operated facility or from one facility to another on the same campus.

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Proposed Rules

Subp. 64. **Licensed consulting psychologist.** "Licensed consulting psychologist" means a person licensed under *Minnesota Statutes*, section 148.91, subdivision 4.

Subp. 65. **Licensed practical nurse.** "Licensed practical nurse" means a person licensed under *Minnesota Statutes*, sections 148.91 to 148.299.

Subp. 66. **Licensed psychologist.** "Licensed psychologist" means a person licensed under *Minnesota Statutes*, section 148.91, subdivision 5.

Subp. 67. **Life estate.** "Life estate" means an interest in real property with the right of use or enjoyment limited to the life or lives of one or more human beings that is not terminable at any fixed or computable period of time.

Subp. 68. **Lump sum.** "Lump sum" means nonrecurring income received at one time. Examples include windfalls, debt repayments, payments from the sale of property, tax refunds, payments of accrued benefits, gifts, and inheritances.

Subp. 69. **Maintenance charge.** "Maintenance charge" means the portion of the cost of care paid by or on behalf of a specific resident.

Subp. 70. **Market rent.** "Market rent" means the rental income that a property would most probably command on the open market in an arm's length negotiation as shown by current rentals being paid for comparable space of comparable worth.

Subp. 71. **Market value.** "Market value" means the most probable price in terms of money that property should bring in a competitive open market under all conditions requisite to a fair sale. The value on the most recent property tax statement must be presumed to be the market value for purposes of calculating the maintenance charge unless the person or the board or its designated representative provides convincing evidence to overcome the presumption.

Subp. 72. **Medical condition.** "Medical condition" means the diagnosis or diagnoses listed in current editions of ICD-9-CM or DSM-MD, made by the applicant's or resident's attending physician.

Subp. 73. **Medical director.** "Medical director" means a physician licensed under *Minnesota Statutes*, chapter 147, and employed by or under contract to the board who is responsible for overall direction of medical practice in a facility and for liaison with independent physicians at the facility.

Subp. 74. **Medical treatment plan.** "Medical treatment plan" means the plan signed by the resident's attending physician that includes the resident's primary and secondary diagnoses, order for treatment and medications, rehabilitation potential, rehabilitation procedures if ordered, clinical monitoring procedures, and discharge potential. The medical treatment plan is a component of the individual care plan.

Subp. 75. **Medically necessary; medical necessity.** "Medically necessary" or "medical necessity" means a health care service that is consistent with the resident's diagnosis or condition and is provided pursuant to the provider's authority under state law and within the scope of licensure, if any, and:

A. is recognized as the prevailing standard or current practice by the provider's peer group;

B. is rendered:

(1) in response to a life-threatening condition or pain;

(2) to treat an injury, illness, or infection;

(3) to treat a condition that could result in physical or mental disability; or

(4) to achieve a level of physical or mental function consistent with prevailing community standards for the diagnosis or condition; or

C. is a preventive health care service.

Subp. 76. **Mental health practitioner.** "Mental health practitioner" means a person qualified under *Minnesota Statutes*, section 245.462, subdivision 17.

Subp. 77. **Mental health professional.** "Mental health professional" means a person qualified under *Minnesota Statutes*, section 245.462, subdivision 18.

Subp. 78. **Mental illness.** "Mental illness" has the meaning given it in *Minnesota Statutes*, section 245.462, subdivision 20, clause (a).

Subp. 79. **Month.** "Month" means a calendar month.

Subp. 80. **Multidisciplinary staff.** "Multidisciplinary staff" means the health care professionals and mental health practitioners or mental health professionals employed by or under contract to the board to provide clinical and evaluative services in the treatment of conditions of the residents.

Subp. 81. **Net income.** "Net income" means income remaining after allowable deductions and exclusions have been subtracted from gross income under parts 9050.0720 to 9050.0755.

Subp. 82. **Net worth.** "Net worth" means the total sum of property owned by an applicant, resident, or spouse of an applicant or resident or managed by a legal representative on behalf of an applicant, resident, or spouse of an applicant or resident less any encumbrances on the property.

Subp. 83. **Nursing care.** "Nursing care" has the meaning given it in part 4655.0100, subpart 8, item B, and *Minnesota Statutes*, section 144A.01, subdivision 6.

Subp. 84. **Nursing home.** "Nursing home" means a facility licensed by the commissioner of health under chapters 4655 and 4660 and *Minnesota Statutes*, chapter 144A.

Subp. 85. **Nursing staff.** "Nursing staff" has the meaning given it in part 4655.0100, subpart 9.

Subp. 86. **Objective.** "Objective" means a short-term treatment expectation and its accompanying measurable physical or behavioral criteria as specified in the individual care plan. An objective is set to facilitate achieving the goals in a resident's individual care plan.

Subp. 87. **Outcome.** "Outcome" means the measure of change or the degree of attainment of treatment goals and objectives in the resident's individual care plan that is achieved as a result of provision of service.

Subp. 88. **Pathological use.** "Pathological use" has the meaning given it in part 9530.4100, subpart 18.

Subp. 89. **Personal absence.** "Personal absence" means an absence from a board-operated facility for family visits, vacations, or other personal, nontreatment related reasons.

Subp. 90. **Personal fund account.** "Personal fund account" means the account maintained at a facility by a resident that is solely for use of that resident and managed according to parts 4655.4150 to 4655.4170.

Subp. 91. **Personal property.** "Personal property" means property other than real property.

Subp. 92. **Pharmacist.** "Pharmacist" means a person licensed under *Minnesota Statutes*, chapter 151.

Subp. 93. **Physical therapist.** "Physical therapist" means a person licensed under *Minnesota Statutes*, sections 148.65 to 148.78.

Subp. 94. **Preventive health care service.** "Preventive health care service" means a health care service that is provided to a resident to avoid or minimize the occurrence of illness, infection, disability, or other health condition.

Subp. 95. **Psychiatrist.** "Psychiatrist" means a physician licensed under *Minnesota Statutes*, chapter 147, who can give written documentation of having successfully completed a postgraduate psychiatry program of at least three years duration that is accredited by the American Board of Psychiatry and Neurology.

Subp. 96. **Rate year.** "Rate year" means the state fiscal year for which a payment rate is effective.

Subp. 97. **Real property.** "Real property" means land and all buildings, structures, and improvements or other fixtures on it, all rights and privileges belonging or appertaining to it, all manufactured homes attached to it on permanent foundations, and all trees, mines, minerals, quarries, and fossils on or under it.

Subp. 98. **Registered nurse.** "Registered nurse" means a nurse licensed under *Minnesota Statutes*, sections 148.171 to 148.285.

Subp. 99. **Rehabilitation program.** "Rehabilitation program" means a program of chemical dependency treatment or rehabilitation provided in a residential facility as defined in *Minnesota Statutes*, section 245.782, subdivision 6.

Subp. 100. **Reporting year.** "Reporting year" means the period from April 1 to March 31 immediately preceding the rate year, for which the nursing home or boarding care home calculates its costs, and which is the basis for the determination of the cost of care for the following rate year.

Subp. 101. **Representative payee.** "Representative payee" means an individual designated by the Social Security Administration to receive benefits on behalf of the applicant or resident.

Subp. 102. **Reserved bed.** "Reserved bed" has the meaning given it in part 9050.0150, subpart 6.

Subp. 103. **Resident.** "Resident" has the meaning given it in *Minnesota Statutes*, section 198.001, subdivision 2.

Subp. 104. **Resident's financial information file.** "Resident's financial information file" means financial data collected to determine the ability of an applicant or resident to pay or have paid the amount indicated in the admissions agreement toward the resident's cost of care.

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Proposed Rules

Subp. 105. **Resource.** "Resource" means any property, income, or benefit that is available to pay for the cost of care of the resident.

Subp. 106. **Social worker.** "Social worker" means a person who is licensed under *Minnesota Statutes*, section 148B.21, who has met the minimum qualifications of a social worker under the Minnesota Merit System or a county civil service system in Minnesota.

Subp. 107. **Staff physician.** "Staff physician" means a physician licensed to practice medicine under *Minnesota Statutes*, chapter 147, who is employed by or under contract to the board to provide services in a board-operated facility.

Subp. 108. **Staff psychiatrist.** "Staff psychiatrist" means a psychiatrist who is employed by or under contract to the board to provide psychiatric services in a board-operated facility.

Subp. 109. **Staff psychologist.** "Staff psychologist" means a person licensed under *Minnesota Statutes*, section 148.91, subdivision 4 or 5, who is employed by or under contract to the board to provide psychological services in a board-operated facility.

Subp. 110. **Transfer.** "Transfer" means:

A. movement of a resident to or from another health care facility for purposes of hospitalization or other health care services if a bed is held at the particular board-operated facility for the resident pending completion of medically necessary treatment and the resident's anticipated return to the same board-operated facility; or

B. movement to or from a nursing home to a boarding care facility or to or from a boarding care facility to a nursing home at a particular campus, when a bed hold is not required and a return to the resident's previous level of care is not anticipated.

Subp. 111. **Treatment.** "Treatment" means the use of medically necessary health care services to prevent, correct, or ameliorate disease or abnormalities detected by diagnostic or screening procedures.

Subp. 112. **Treatment absence.** "Treatment absence" means an absence of a resident from a board-operated facility, with the expectation of the resident's return to the board-operated facility. The absence must be to be placed in a residential institutional setting, including a detoxification facility, a rehabilitation program, or health care facility other than a hospital.

Subp. 113. **Unearned income.** "Unearned income" means any form of gross income that does not meet the definition of earned income. Unearned income includes an annuity, retirement, or disability benefit, including veteran's or worker's compensation, social security disability, railroad retirement benefits, or unemployment compensation; benefits under a federally funded categorical assistance program including supplemental security income, or other assistance programs, gifts, rents, dividends, interest and royalties, support and maintenance payments, pension payments, return on capital investment, insurance payments or settlements, severance payments, employment benefits and rewards for past employment; and educational grants, deferred payment loans, and scholarships. Unearned income must be calculated according to part 9050.0710, subpart 5.

Subp. 114. **Unemployment compensation.** "Unemployment compensation" means the insurance benefits paid to an unemployed worker under *Minnesota Statutes*, sections 268.03 to 268.231.

Subp. 115. **Utilization review.** "Utilization review" means the activity or function within the board-operated facility responsible for the ongoing evaluation of the necessity for and the quality and timeliness of services provided in board-operated facilities, according to chapters 4655 and 4660, when the services are not under the responsibility of a professional standards review organization.

Subp. 116. **Verification.** "Verification" means the process the facility financial staff or social services staff must use to establish the accuracy or completeness of information from an applicant, a resident, a third party, or other source as that information relates to a person's eligibility for admission, suitability for admission, or calculation of maintenance charge.

Subp. 117. **Veteran.** "Veteran" has the meaning given it in *Minnesota Statutes*, section 197.447.

Subp. 118. **Volunteer.** "Volunteer" means a person who, without compensation, gives time and effort in supportive or person-to-person services.

Subp. 119. **Vulnerable adults act.** "Vulnerable adults act" has the meaning given it in *Minnesota Statutes*, section 626.557.

Subp. 120. **Working days.** "Working days" means Monday through Friday, excluding state recognized legal holidays.

9050.0050 PERSONS ELIGIBLE FOR ADMISSION.

Subpart 1. **General qualifications.** A person seeking admission to a board-operated facility must meet the admission requirements in *Minnesota Statutes*, sections 198.01, 198.02, and 198.03, and the criteria in part 9050.0070. The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900.

For purposes of subparts 2 and 3, a person is a resident of the state if the person has been physically present in the state on a continuous basis for six months before the date of application for admission.

For purposes of subparts 2 to 4, an applicant or resident has adequate means of financial support if the applicant or resident is financially able to live independently. A person is financially able to live independently if the person has assets in excess of \$3,000 or income sufficient to meet basic needs.

Subp. 2. **Veterans.** A person must meet the criteria in *Minnesota Statutes*, sections 197.447 and 198.022, paragraphs (1) and (2), to be eligible for admission to a board-operated facility as a veteran.

Subp. 3. **Nonveterans.** A person who is not a veteran must meet the criteria in *Minnesota Statutes*, section 198.022, paragraphs (1) and (3), to be eligible for admission to a board-operated facility.

Subp. 4. **Exceptions.** An applicant otherwise eligible for admission to a board-operated facility under subpart 2 or 3 who has adequate means of support may be admitted to a board-operated facility if the applicant complies with the requirements in *Minnesota Statutes*, section 198.03. An applicant seeking admission under *Minnesota Statutes*, section 198.03, and this subpart must not have past unpaid debts to the state for maintenance charges for prior residence in a board-operated facility. An applicant who has past unpaid debts to the state must make full payment of the past unpaid bills for maintenance charges or negotiate a reasonable repayment plan with the board before an application for admission will be placed on the active waiting list.

9050.0055 ADMISSIONS PROCESS, WAITING LIST, PRIORITY.

Subpart 1. **Process.** A person seeking admission to a board-operated facility may obtain an application form and information describing the required application procedures from the facility. The social services staff of the board-operated facility shall assist the person to complete the application form and process. When an application is requested, the social services staff shall provide a checklist of items requiring documentation, information, or verification to complete the application. An application is complete when the following information is received by the board-operated facility:

- A. a completed, signed application form;
- B. a copy of the person's military discharge papers;
- C. a signed copy of the board-operated facility's admission policy statement; and
- D. the following medical records:

- (1) a discharge summary from all hospitals at which the person received treatment within the five years before application;
- (2) a patient care information form from the current nursing home, if any;
- (3) if the person resides at home at the time of application, a patient care information form completed by the primary caregiver; and
- (4) if the person resides at home at the time of application, a history and physical from the attending physician.

The social services staff of the board-operated facility shall keep a checklist on which to record the date of receipt of information for the person's application file. Upon completion of an application file, a determination must be made by the board-operated facility social services staff as to whether the applicant meets the general eligibility requirements in part 9050.0050. If the requirements of part 9050.0050 are met, an applicant's name must be referred to the admissions committee or be placed on the waiting list for the particular facility as specified in subpart 3.

Subp. 2. **Timing of review by the admissions committee.** The admissions committee shall review an application for admission to determine the applicant's suitability for admission to a board-operated facility as determined by the criteria in part 9050.0070, subparts 3 and 4, according to items A and B.

A. If the board-operated facility to which a person has applied has no waiting list, the admissions committee shall review the application file within ten working days of its completion.

B. If the board-operated facility to which the person has applied has a waiting list, the admissions committee shall review the application file within ten working days from the time the applicant's name reaches the first place on the active waiting list and a bed becomes available.

Subp. 3. **Waiting lists.** Each board-operated facility shall maintain an active waiting list and an inactive waiting list to determine the admission priority of applicants. The active waiting list is for applicants desiring the first available bed at the level of care appropriate to the applicant's needs. The inactive waiting list is for those applicants who do not want to exercise their option for admission, but who want to be prepared to exercise that option and want to be kept informed of openings or of the length of the active waiting list at the board-operated facility.

If an eligible applicant cannot be considered for admission to a board-operated facility with an appropriate level of care due to unavailability of a bed, the applicant must be placed on either an active or inactive waiting list according to preference. An applicant

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Proposed Rules

shall indicate preference for the active or inactive waiting list on the application for admission. An applicant may request movement from one waiting list to another at any time, unless the request is precluded by subpart 5. An applicant requesting movement from one waiting list to another must be placed at the bottom of the waiting list to which movement was requested. The applicant's position on the waiting list is determined by the date on which the application file is complete.

Subp. 4. **Priority.** Current residents of board-operated facilities have priority for consideration for admission to other board-operated facilities at an appropriate level of care if they meet the criteria for that level of care and a bed is available. A person on the active waiting list must be considered for admission and, if approved by the admissions committee, offered a bed consistent with the person's position on the active waiting list and the person's case mix classification and level of care needs as determined by the admissions committee. A person offered admission has seven working days to consider the offer. If the person declines the offer of admission, the person's name must be put on the bottom of the active waiting list, unless the person requests removal from the active waiting list or transfer to the inactive waiting list. If the person fails to respond to the offer of admission within seven working days from the date the offer is made, the person's application file must be closed and the person's name removed from all waiting lists. A person whose name is removed from all waiting lists for failure to respond to an offer for admission must reapply.

Subp. 5. **Limitations on refusals to exercise option for admission from active waiting list.** Refusal or failure to exercise the option for admission from the active waiting list is limited as set forth in items A and B.

A. A person who is placed on the waiting list after the effective date of parts 9050.0010 to 9050.0900 and who twice refuses an opportunity for admission must be removed from the active waiting list and placed on the inactive waiting list. The person is not permitted to transfer to the active waiting list for one year from the date the person refused an opportunity for admission unless the person can verify by an attending physician a significant change in health status since the date of last refusal.

B. A person who is on the waiting list as of the effective date of parts 9050.0010 to 9050.0900 and who has previously refused one or more opportunities for admission must be allowed one additional opportunity for admission before being moved to the inactive waiting list.

Subp. 6. **Initial financial status review.** The facility financial staff shall evaluate the financial status of a person approved for admission. The purpose of the initial financial status review is to determine the person's ability to pay toward the cost of care and to calculate the person's maintenance charge. The financial status review must be conducted according to parts 9050.0800 to 9050.0900. The maintenance charge calculation must be according to part 9050.0560.

9050.0060 ADMISSIONS COMMITTEE; CREATION, COMPOSITION, AND DUTIES.

Subpart 1. **Admissions committee appointed.** The administrator of a facility shall appoint an admissions committee for that facility to review and act on applications for admission to that facility.

Subp. 2. **Composition of admissions committee.** The admissions committee must consist of three or more of the following staff members of the board-operated facility: the administrator or a designee, a registered nurse, a social worker, a mental health professional or mental health practitioner, and a physical therapist. Additional admissions committee members may include any of the following staff members, as indicated by the diagnosis or diagnoses of the applicant to be reviewed: a chemical dependency counselor, a mental health professional or mental health practitioner, physical therapist, dietician, and clergy member.

Subp. 3. **Duties.** The admissions committee has the duties specified in items A and B.

A. The admissions committee shall review and act on all applications by conducting a screening as specified in subpart 4, and by reviewing the completed application and documentation in part 9050.0055. The admissions committee shall determine whether or not to admit the applicant according to the facility's ability to meet the applicant's care needs, based on the admissions criteria in part 9050.0070, subparts 3 and 4.

B. The admissions committee shall record the minutes of each committee meeting. The minutes must reflect the date of the review, the applicant's name, the current living status of the applicant, the reason for the placement request, a brief description of the applicant's physical or mental status, and the rationale behind the committee decision. The minutes must be kept by the administrator for the time specified for retention of medical records in parts 4655.3200 to 4655.3600.

Subp. 4. **Screening.** To prepare for review of an application for admission, the admissions committee or its designated representatives shall conduct a preadmission screening similar to that prescribed in *Minnesota Statutes*, section 256B.091. The admissions committee or its designated representatives shall interview the applicant or the applicant's legal representative, if any, and the applicant's family members with the applicant's consent. The admissions committee shall also obtain the following information:

A. military service records or discharge information about the applicant or the applicant's spouse;

B. medical and psychiatric information from previous or current placements and current attending physicians and, as appropriate, psychologists or psychiatrists;

C. information from the applicant's previous or current placements about the applicant's compliance with the applicant's medical treatment plan or individual treatment or care plan;

- D. Bureau of Criminal Apprehension reports or criminal background information or reports, as appropriate;
- E. level of care information from previous and current placements; and
- F. financial status for purposes of determining the applicant's ability to pay.

9050.0070 TYPES OF ADMISSIONS.

Subpart 1. **General criteria.** Admissions must be according to the requirements in parts 4655.0400, 4655.0500, 4655.0700, and 4655.1500.

Subp. 2. **Selection of residents.** Of those applicants eligible for admission under part 9050.0050 and *Minnesota Statutes*, sections 198.01, 198.022, and 198.03, the admissions committee of the board-operated facility, in consultation with the applicant's attending physician, shall determine whether an applicant is to be admitted by applying the criteria for each type of facility in subparts 3 and 4.

Subp. 3. **Criteria for admission to and continued stay in a boarding care facility.** The decision about admission to or continued stay in a board-operated facility licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the board-operated facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee determines the person does not meet the criteria in items A to N.

A. The person must have or be assigned a case mix classification of A or B under the case mix system established by parts 9549.0058, subpart 2, and 9549.0059 and *Minnesota Statutes*, section 144.072.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician indicating placement in a boarding care facility is a medical necessity.

C. The person's attending physician must document the person's need for the services provided in a boarding care facility.

D. A person must be alert and oriented to person, place, and time, and able to function within a structure of daily monitoring by the nursing staff of the boarding care facility. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

E. A person must be able to recognize and appropriately react to hazards in the environment. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist. The case mix indicator, developed under *Minnesota Statutes*, section 144.072, for orientation and self-preservation skills must be used to determine whether the individual has the mental judgment or physical ability necessary to function in a changing environment and a potentially harmful situation.

F. The person must participate in establishing and comply with the person's individual care plan and comply with the medical treatment plan prescribed by the attending physician. Continuing compliance must be measured as specified in the compliance review process in part 9050.0300.

G. A person must be physically and mentally capable of providing personal care and hygiene including dressing, grooming, washing other than bathing, eating, and toileting. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

H. The person must be assessed by a staff registered nurse as independent in transferring and mobility.

I. The person must require no more than twice daily face-to-face monitoring by the nursing staff of the boarding care facility. For continued stay, face-to-face monitoring for special medical needs may exceed twice daily for up to five days with approval of the assistant director of nursing of the boarding care facility.

J. A staff psychiatrist or psychologist must document that the person with a history of violent or self-abusive behavior does not pose a threat of harm to self or others.

K. A person diagnosed by the attending physician as actively psychotic must require no more than twice daily face-to-face monitoring by facility nursing staff and no more than weekly face-to-face therapeutic contacts with a staff psychiatrist or psychologist.

L. A person with a history of chemical abuse or a diagnosis of chemical dependency must have successfully completed an in-patient residential chemical dependency treatment or rehabilitation program as defined in part 9050.0040, subparts 25 and 103, and

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Proposed Rules

must be chemically free. For purposes of this item, a person is chemically free if the person can document six months of nonuse or use with no symptoms of dependency prior to admission and demonstrates continued nonuse of chemicals during residence.

M. The person must be able to comply with Minnesota veterans homes rules in parts 9050.0010 to 9050.0900. Ability to comply is demonstrated by a documented history of compliance in a prior placement, if any. Continuing compliance must be measured as specified in the compliance review process in part 9050.0300.

N. The person must be free from any reportable communicable disease or infection as defined in part 4605.7040 that poses a threat to the health and safety of others.

Subp. 4. **Criteria for admission to and continued stay in a nursing home facility.** The decision about admission or continued stay in a board-operated facility licensed as a nursing home must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines that the person meets all of the criteria in items A to F. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to F.

A. The person must have or be assigned a case mix classification of A to K under the case mix system established by parts 9549.0058, subpart 2, and 9549.0059 and *Minnesota Statutes*, section 144.072.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician indicating placement in a nursing home is a medical necessity.

C. The person's attending physician must document the person's need for the services provided in a nursing home.

D. The person must demonstrate a history of compliance with an individual treatment or care plan or with the medical treatment plan prescribed by the attending physician. The person with a history of noncompliance must be assessed by a staff registered nurse as to the facility's ability to meet the person's care needs.

E. The person must be free from any reportable communicable disease or infection as defined in part 4605.7040 that poses a threat to the health and safety of others.

F. A staff psychiatrist or psychologist must document that the person with a history of violent or self-abusive behavior does not pose a threat of harm to self or others.

9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

Subpart 1. **Notice.** An applicant must be advised by the board, in writing, of the admissions committee's decision and the reasons for the decision. The notice must be sent to the applicant no later than three working days after the admissions committee's decision. The notice must include information about the applicant's right to request a review of a denial and about the review process as specified in subpart 2 or information regarding additional actions necessary to effect admission. Nothing in this subpart precludes concurrent or prior notification by telephone.

Subp. 2. **Review.** An applicant or the applicant's legal representative may request a review of a decision of the admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility. The review must be completed within 30 days of receipt of the request. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070, subpart 3 or 4, and shall issue a final decision. The decision of the administrator shall constitute final agency action.

9050.0100 TRANSFER.

Subpart 1. **Generally.** A resident may be transferred from a board-operated facility to another health care facility or rehabilitation program or detoxification program if:

A. ordered or recommended by the attending physician or the utilization review committee as part of the resident's individual care plan;

B. requested by the resident or the resident's legal representative, if any; or

C. an emergency situation exists.

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Bill of Rights established in

Minnesota Statutes, section 144.651, and must be based on the facility's ability to meet the person's care needs as determined by the criteria in part 9050.0700, subparts 3 and 4. A resident transferred from another facility back to the board-operated facility does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the board-operated facility's control, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment of stay, a resident for whom the utilization review committee or the attending physician recommends a transfer must be notified of the recommendation at least:

A. 30 days before the anticipated transfer date, if to a non-board-operated facility or program, according to *Minnesota Statutes*, section 144.651, subdivision 29; and

B. seven days before the anticipated transfer to another bed or level of care within the same board-operated facility, or to another board-operated facility located at the same campus, according to *Minnesota Statutes*, section 144.651, subdivision 29.

Subp. 3. **Mechanisms of effecting transfer.** A transfer must be effected in the manner applicable to a voluntary discharge in part 9050.0210. The party recommending or requesting transfer shall arrange for transportation for the resident to the new facility or location.

Subp. 4. **Transfers to United States Department of Veterans Affairs Medical Center.** The board-operated facility must not guarantee access or admission to or treatment at the United States Department of Veterans Affairs Medical Center, nor does residence at a board-operated facility grant residents preference with regard to access, admissions, or treatment at the United States Department of Veterans Affairs Medical Center. If the United States Department of Veterans Affairs Medical Center agrees to accept the resident and has an available bed, the resident must be transferred to that facility. If the United States Department of Veterans Affairs Medical Center denies the resident treatment or admission, the resident must be transferred to a hospital or other health care facility that is able to provide the appropriate service. The Minnesota Veterans Homes Board, the Minnesota veterans home facility, the Minnesota Department of Veterans Affairs, or the state of Minnesota are not responsible for the costs of a resident's hospitalization or treatment at a facility that is not a board-operated facility.

Subp. 5. **Appeals.** A resident may appeal a transfer decision that is not based on an emergency. Appeal is to be taken in the same manner as appeal of discharge under part 9050.0220.

9050.0150 BED HOLD.

Subpart 1. **Generally.** A resident's bed or a comparable bed at an appropriate level of care must be held for the resident if the resident is absent from the board-operated facility for a circumstance specified in subparts 2 to 4 and continues payment as required in subpart 5 and part 9050.0540.

Subp. 2. **Hospital absence.** A resident's bed must be held during a resident's hospital absence if the treatment in the hospital is on the order of the resident's attending physician or is a result of a medical emergency. A hospital absence in excess of 30 days must be periodically monitored by facility staff with regard to the resident's progress and likelihood the resident can be cared for on return to the board-operated facility as determined by the criteria in part 9050.0070, subpart 3 or 4. If satisfactory progress is not being made, discharge proceedings must be started by the utilization review committee.

Subp. 3. **Treatment absence.** A resident's bed must be held during a resident's treatment absence if the treatment is on the order of the resident's attending physician as part of the resident's individual care plan. The resident must participate in treatment on a continuing basis and make satisfactory progress as determined by the administrator of the treatment program. If satisfactory progress is not being made, discharge proceedings must be instituted by the utilization review committee.

Subp. 4. **Personal absence.** A resident's bed must be held when the person leaves the board-operated facility on a personal absence. A personal absence may be no longer than 96 hours.

Subp. 5. **Effect on maintenance charges.** A resident whose bed is held under this part shall continue to pay any maintenance charge or charges that accrued or are accruing either before or during the resident's absence from the board-operated facility. Absences exceeding 96 hours with or without notice result in termination of the resident's entitlement to the per diem payment of the United States Department of Veterans Affairs retroactive to the date of departure.

Subp. 6. **Exception.** A bed may be held without charge for an approved applicant for up to two weeks from the date of acceptance of the offer of admission. A bed held under this subpart must be a reserved bed.

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Proposed Rules

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the board-operated facility at least once every 30 days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the board-operated facility and the resident's compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding 96 hours or more than five personal absences per year that are less than 96 hours must be reviewed by the utilization review committee. The decision about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

9050.0200 DISCHARGE.

Subpart 1. **General criteria.** Discharge from a nursing care facility or a boarding care facility constitutes permanent release from that board-operated facility and terminates the duties and responsibilities of the board and the facility staff with respect to the discharged individual. Once discharged, a former resident must reapply for admission to a Minnesota veterans home facility.

Subp. 2. **Types of discharge.** A resident must be discharged from the facility either voluntarily or involuntarily according to items A and B.

A. A discharge is voluntary if there is mutual consent between the resident, the resident's legal representative or spouse, if any, the resident's attending physician, and the administrator of the facility.

B. A discharge is involuntary if it is without mutual consent of the resident, the resident's legal representative who has the legal authority, or spouse, if any, the resident's attending physician, and the administrator of the facility or if it is contrary to the expressed preference of the resident.

Subp. 3. **Grounds for discharge.** Discharge procedures must be instituted with regard to a resident if one of the following grounds or circumstances exist:

A. the resident or resident's legal representative fails or refuses to comply with the resident's admissions agreement;

B. the resident or resident's legal representative makes a written request for discharge of the resident;

C. the board-operated facility is unable to meet the care needs of the resident, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

D. the resident is absent from the facility for 96 consecutive hours or more without notice; or

E. the resident or resident's legal representative or spouse:

(1) falsifies or fraudulently represents information on income disclosure and verification forms required in parts 9050.0800 to 9050.0900;

(2) refuses to provide information or releases; or

(3) falsifies or fraudulently represents information relating to criteria in part 9050.0070, subpart 3 or 4, or issues in part 9050.0060, subpart 4.

Subp. 4. **Notice of involuntary discharge.** Unless the time for the notice is extended by the administrator of a board-operated facility or a situation arises that is outside the facility's control, such as a utilization review, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment of stay, a resident must be notified in writing by the administrator of the facility of its intent to proceed with involuntary discharge of the resident at least 30 days before the scheduled date of discharge as provided by *Minnesota Statutes*, section 144.651, subdivision 29.

Subp. 5. **Contents of notice.** The notice must:

A. state that the discharge is involuntary;

B. state the grounds for the discharge as specified in subpart 3; and

C. contain documentation supporting the grounds alleged for the discharge.

Subp. 6. **Exceptions.** A resident absent from a board-operated facility for 96 consecutive hours without notice is subject to immediate institution of involuntary discharge procedures. A resident's discharge under this subpart is subject to a reinstatement hearing if the resident reports his or her whereabouts to the administrator of the facility and requests the reinstatement hearing within 30 days from the resident's departure from the facility without notice.

9050.0210 VOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **When used.** Voluntary discharge procedures must be used when a discharge from the board-operated facility is voluntary as in part 9050.0200, subpart 2, item A, or following review of an appeal from an involuntary discharge order when a court has issued an enforcement order or the resident has agreed to comply with the order for discharge.

Subp. 2. **Responsibilities of facility staff.** The board shall ensure that the tasks in items A to E are completed in effecting discharge under this part.

A. The discharge component of the resident's individual care plan must be updated and implemented after the resident has had an opportunity to confer with a social worker about the plan as described in subitems (1) and (2).

(1) A discharge conference must be arranged by the social worker with the resident, the resident's family with the resident's consent, the social worker, and multidisciplinary staff. The social worker shall make a referral of the resident to social or health care services identified in the resident's individual care plan as necessary for the resident's discharge.

(2) The board shall ensure that adequate arrangements exist to meet the resident's financial and other needs following the resident's discharge.

B. The attending physician and board-operated facility multidisciplinary staff shall complete the resident's medical record. The resident's medical record must be retained as specified in parts 4655.3200 to 4655.3600.

C. The resident's medications must be disposed of by a pharmacist according to parts 4655.7600 to 4655.7860.

D. The board-operated facility staff shall release certified copies of the resident's record or the portions specifically requested to a requesting party subject to the requirements of the Minnesota Data Practices Act, *Minnesota Statutes*, chapter 13. The requesting party shall pay the actual cost of photocopying records. To release a record or information regarding a resident, the resident must sign a form that includes the:

- (1) resident's name;
- (2) date;
- (3) specific nature of information to be released;
- (4) names of persons authorized to give information;
- (5) names of persons to whom information is given;
- (6) description of information to be released; and
- (7) date the authorization expires.

A separate form is required for each release. The period of validity of an authorization may not exceed one year.

E. At the time of discharge, a description of the place and circumstances of discharge must be documented in the resident's record.

9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200, subpart 3, item C or D, must be based on the recommendation of the utilization review committee. Involuntary discharge under part 9050.0200, subpart 3, item A or E, must be based on the recommendation of the facility financial staff or social services staff.

Subp. 2. **Initial notice, review of recommendation.** An initial notice for involuntary discharge must be issued by the administrator of the board-operated facility if, after review of the recommendations and documentation from the utilization review committee or finance department, the administrator agrees with the recommendations.

Subp. 3. **Reconsideration.** A resident or the resident's legal representative may request a reconsideration of the initial notice of involuntary discharge. The request must be made in writing within ten days of receipt of the initial notice of involuntary discharge. Reconsideration must be before the administrator of the board-operated facility under the procedures in subpart 4.

Subp. 4. Reconsideration procedures, scheduling, representation.

A. A resident may be represented at a reconsideration under this part by an attorney, the resident, an advocate from the Office of the Ombudsman for Older Minnesotans, or other person of the resident's own choosing.

B. A resident and the resident's representative may question witnesses and present reasons why the resident should not be discharged.

C. The administrator shall record the proceedings electronically or stenographically. The cost must be borne by the facility.

D. The time for the reconsideration proceeding must be set by the administrator. The time may be extended for the resident for good cause shown. For purposes of this item, good cause exists when a resident cannot attend because of:

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Proposed Rules

(1) illness or injury of the resident;

(2) illness, injury, or death of a member of the resident's family that requires the resident's presence during the time the review is scheduled;

(3) an inability to obtain necessary assistance;

(4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident's participation;

(5) a judicial proceeding that requires the resident's presence in court during the hours when the reconsideration is scheduled;
or

(6) a nonmedical emergency that requires the resident's presence at a different location during the hours when the reconsideration is scheduled. "Emergency" under this subitem means a sudden unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

Subp. 5. Administrator's decision and preliminary order. The administrator, after the reconsideration proceeding and on review of the record, shall review the question of discharge and issue a preliminary order supporting or reversing the initial involuntary discharge notice and state the reasons for the involuntary discharge.

Subp. 6. Appeals process. An applicant or resident, or legal representative, may appeal a discharge or transfer order. Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, *Minnesota Statutes*, sections 14.48 to 14.56, until rules are adopted under *Minnesota Statutes*, section 144A.135, by the commissioner of health. Unless otherwise decided by the administrator of the board-operated facility, a final discharge order issued by the administrator following the Office of Administrative Hearings' review remains in effect pending any appeal according to *Minnesota Statutes*, section 14.65.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

9050.0230 ENFORCEMENT OF FINAL DISCHARGE ORDER.

A final discharge order is the order issued by the administrator of a board-operated facility following review of the preliminary discharge order under *Minnesota Statutes*, chapter 14. A final discharge order is the final agency action. When a resident refuses to comply with the terms of a final discharge order issued following review under *Minnesota Statutes*, chapter 14, and final agency action, the administrator may seek enforcement of the final discharge order by applying to the district court for an order enforcing the administrative order of discharge. Pursuant to *Minnesota Statutes*, section 198.045, the district court may order the sheriff of the county in which the board-operated facility is located to remove the resident from the board-operated facility and authorize the administrator to remove the resident's property and hold it until it can be returned to the former resident. Upon issuance of the court order, the procedures in part 9050.0210 regarding voluntary discharge must be followed, to the extent possible, to effect the discharge.

9050.0300 COMPLIANCE REVIEW.

Subpart 1. Generally. A board-operated facility must have and implement a compliance review procedure to review a resident's compliance with an individual care plan and facility rules as specified in chapter 9050. The review must determine what action, if any, is to be taken to ensure the resident's compliance and whether the board-operated facility is able to care for the resident according to the criteria in part 9050.0070, subparts 3 and 4.

Subp. 2. Requirements of procedure. A compliance review procedure must provide for:

A. the resident's right to participation of a resident advocate in the compliance review;

B. notice to the resident of each problem or infraction;

C. instruction for the resident regarding procedures or options for compliance;

D. opportunity for participation of the resident or the resident's legal representative, social workers, and, with the resident's consent, the resident's family members;

E. differentiated reviews and actions consistent with the frequency and severity of the resident's compliance problem;

F. notice to the resident that repeated noncompliance may result in imposition of disciplinary options or restrictions that the utilization review committee finds necessary to provide for the resident's care needs according to part 9050.0070, subpart 3 or 4, and the resident's individual care plan;

G. an accelerated review procedure to be used when the severity of the resident's noncompliance endangers the health and safety of the resident, other residents, or staff members of the board-operated facility;

H. consideration of the resident's ability to comprehend and cooperate with parts 9050.0010 to 9050.0900 or with the individual care plan provisions; and

I. notice to the resident that the ultimate consequence of noncompliance is a recommendation for discharge, if the noncompliance results in the board-operated facility's inability to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

Subp. 3. **Conduct of review; responsibilities.** Compliance review must be conducted by the utilization review committee or subcommittee. Decisions as to the use of the review procedure, disciplinary options, or recommendations for discharge must be by majority vote. Decisions of the committee or subcommittee at each level or occasion of review must be based on the facility's ability to care for the resident according to part 9050.0070, subpart 3 or 4.

9050.0400 UTILIZATION REVIEW COMMITTEE.

Subpart 1. **Appointment and duties.** The administrator of a facility shall appoint a utilization review committee composed of persons as specified in subpart 2 who are employed by or under contract to the board-operated facility or the board. The committee shall have the duties specified in subpart 3.

Subp. 2. **Composition.** The utilization review committee consists of two physicians and at least one of each of the following professionals: a registered nurse, the administrator or the administrator's designee, a social worker, and a medical records technician. Additional committee members may include any of the following staff members as indicated by the diagnosis or diagnoses of the resident to be reviewed: a chemical dependency counselor, a mental health practitioner or mental health professional, or a dietician. The administrator or the administrator's designee, one other committee member, and at least two physicians must be in attendance to hold a meeting and to take action.

Subp. 3. **Duties.** The duties of the utilization review committee are to:

A. review the necessity and appropriateness of admissions, bed holds, transfers, and the need for discharge of all residents according to the United States Department of Veterans Affairs, chapter 9050, and Department of Health nursing and boarding care criteria specified in parts 4655.0400, 4655.0500, 4655.0700, and 4655.1500;

B. recommend to the administrator of the board-operated facility criteria for use in admitting residents for care plan reviews and discharge;

C. perform medical care evaluation studies at the request of the board and review assessments of residents;

D. provide reports and recommendations to the administrators and the board;

E. provide information as required to appropriate state and federal agencies and fiscal agents, including the United States Department of Veterans Affairs, Minnesota Department of Veterans Affairs, Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Department of Administration, and Legislative Auditor;

F. periodically evaluate the Minnesota veterans homes utilization review procedures and recommend ways to correct deficiencies in the review procedures; and

G. review each resident's case record annually to:

(1) determine the facility's ability to meet the resident's care needs;

(2) assess the resident's willingness to cooperate with an individual care plan and obey facility rules in chapter 9050;

(3) assess the appropriateness of the resident's continued stay; and

(4) develop and update the discharge component of the individual care plan for each resident, as appropriate.

Subp. 4. **Decisions.** Decisions must be by majority vote of the members of the utilization review committee following review at a committee meeting. Decisions about residents must be based on the facility's ability to meet the care needs of the resident or applicant according to part 9050.0070, subpart 3 or 4.

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

Subpart 1. **Annual calculation; effective date; notice of change.** The cost of care used to determine the maintenance charge of a resident must be calculated annually under this part. A change in the cost of care becomes effective on July 1 of the rate year following the reporting year used to calculate the cost of care. The cost of care must remain fixed for that rate year. A notice of change in the cost of care must be provided to all residents and their legal representatives 30 days before its effective date.

Subp. 2. **Costs to be included in calculating cost of care.** The calculation of the cost of care includes both the direct and indirect costs of providing resident care. These costs must be compiled separately for each board-operated facility on the basis of whether nursing home or boarding care services are provided.

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Proposed Rules

A. Direct costs include the costs of staff care directly attributable to boarding care or nursing home services that directly benefit the resident. An example of a direct cost is nursing service.

B. Indirect costs include costs incurred for common or joint purposes that are identified with more than one level of care and are for services that are provided on behalf of a resident of the facility or facilities. Examples are the costs of housekeeping, laundry, administration, and food services. Indirect costs must be reduced by the amount of receipts received by the board-operated facility for lease or rent payments, meals, and other common purpose sources.

C. Calculation of the cost of care does not include the expenses of the board and capital expenditures or revenues, including federal matching funds and designated contributions, and resident fund accounts as specified in parts 4655.4120 to 4655.4170.

Subp. 3. Method of calculating average daily per resident cost of care. The cost of care for a nursing home or boarding care home must be calculated as follows:

A. total the direct costs for a particular campus or board-operated facility for a reporting year;

B. divide item A by 365;

C. divide item B by the average number of residents in nursing home care or boarding care for a reporting year;

D. total the indirect costs for a particular campus or board-operated facility for a reporting year;

E. divide item D by 365;

F. divide item E by the average number of residents at a particular campus or board-operated facility for a reporting year; and

G. total items C and F. The result is the average daily per resident cost of care for nursing home care or boarding care.

Subp. 4. Cost of care related to maintenance charge. The cost of care as calculated in subpart 3 must be used to determine the maintenance charge to the resident. The maintenance charge must be based on the resident's ability to pay. The maintenance charge must be calculated as specified in part 9050.0560. The maintenance charge must be reviewed and adjusted as specified in parts 9050.0560 and 9050.0580. Additionally, when applicable, the resident's maintenance charge must be reduced by the amount of the per diem reimbursement paid on behalf of a resident by the United States Department of Veterans Affairs.

Subp. 5. Effect of bed hold on maintenance charges. A resident who pays a maintenance charge, regardless of amount, shall continue to pay that same maintenance charge during a bed hold as specified in part 9050.0150, subpart 5.

Subp. 6. Billing. Billing for maintenance charges must be as specified in items A to F

A. The maintenance charge must be billed monthly.

B. The monthly billing must be the resident's chargeable income as calculated in part 9050.0755, up to the full cost of care.

C. The maintenance charge must be billed to the address designated by the resident or the resident's legal representative on the resident's application for admission.

D. A billing for one month's service must be issued no later than the tenth of the month following the month in which the service was provided.

E. A resident must be charged for the day of admission but not for the day of discharge. For purposes of this item, one day is the 24-hour period ending at midnight.

F. A billing must state the date by which payment must be received.

9050.0510 MAINTENANCE CHARGE; ADDITIONAL SERVICES; VETERAN EXCLUSIVE SERVICES.

Subpart 1. Additional services at resident's own expense. In addition to the services in the resident's admissions agreement, a resident may use additional health care services at the resident's own expense if the health care services do not exceed the level of care for which the facility is licensed and if the service provider complies with documentation requirements of the board-operated facility. A resident who chooses to use additional health care services at the resident's own expense shall continue to pay the maintenance charge determined under part 9050.0530.

Subp. 2. Veteran exclusive services. "Veteran exclusive services" are medical benefits or services provided or sponsored by the United States Department of Veterans Affairs exclusively for veterans. Examples include the United States Department of Veterans Affairs physician services and laboratory services. Nonveteran residents are not entitled to veteran exclusive medical benefits or services. Payment of the maintenance charge does not make a nonveteran eligible for veteran exclusive benefits or services provided at the board-operated facility. Nonveteran residents shall obtain necessary health care services comparable to veteran exclusive services at the resident's expense. The services must be within the confines of the level of care for which the facility is licensed.

9050.0520 MAINTENANCE CHARGE; DELINQUENT ACCOUNTS; INTEREST; DISCHARGE.

Subpart 1. Interest on delinquent accounts. A resident's account is considered delinquent if a resident willfully refuses or fails to pay the bill by the due date. Applicants or residents must be notified if payment has not been received by the due date printed on the

bill. Interest must be charged on all delinquent accounts, effective the date the bill was due, as provided in *Minnesota Statutes*, section 334.01. For purposes of this subpart, "willful refusal or failure to pay" means a situation in which:

- A. the decision of whether to pay is completely within the control of the resident or the resident's legal representative; or
- B. a resident or the resident's legal representative has the ability or resources to pay the maintenance charge and fails to pay.

Subp. 2. **Discharge for nonpayment.** Discharge proceedings must be instituted under part 9050.0200, subpart 2, item A, when an account is delinquent. Discharge proceedings for nonpayment must be stopped when full payment, including accrued interest, is made.

9050.0530 RATES AND CHARGES; AGREEMENT AT TIME OF ADMISSION.

If a person is admitted under *Minnesota Statutes*, section 198.03, a written admissions agreement must be made between the board or its designated representative and the resident or the resident's legal representative about maintenance charges for care and services, obligations concerning payment of the resident's maintenance charge, and the board's refund policy.

9050.0540 NO UNPAID ABSENCE.

Residents are not excused from payment of the maintenance charge when they are absent from the board-operated facility. A resident must continue to pay the maintenance charge determined under part 9050.0560 during a period of absence.

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

Subpart 1. **In general.** The applicant's or resident's ability to pay must be determined from insurance and other benefits, value of property owned, and income. The applicant's or resident's property must be used first to pay the maintenance charge. The applicant's or resident's income must be used after the applicant's or resident's property is reduced to the limits in subpart 3 and part 9050.0600 to pay the maintenance charge.

Subp. 2. **Insurance benefits.** When the investigation of the applicant's or resident's financial status discloses eligibility for insurance benefits, the applicant or resident must be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. When the insurance benefits pay less than the full cost of care, the ability of the applicant or resident to pay the remaining part must be determined from the applicant's or resident's nonexcluded property and income.

Subp. 3. **Property.** If the applicant or resident owns property in excess of \$3,000 that is not excluded under part 9050.0600, subparts 2 and 3, the applicant or resident must be determined able to pay the full cost of care according to part 9050.0755. The person shall pay the full cost of care until the property is reduced to the limits in parts 9050.0560 and 9050.0600.

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the board-operated facility as representative payee has been executed in favor of the board-operated facility.

Subp. 5. **Property and income of spouse.** Property and income of the spouse of the applicant or resident must not be considered an available resource for payment of a maintenance charge.

9050.0560 MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION METHOD.

Subpart 1. **Time of determination.** The amount of the maintenance charge must be determined if:

- A. a person is admitted to a board-operated facility and at least annually after admission;
- B. there is a substantial change in the applicant's or resident's financial status or the financial status of the spouse of the applicant or resident;
- C. a change in the applicant's or resident's living status requires recalculation of the benefits provided by the United States Department of Veterans Affairs or other source;
- D. the resident is transferred from one level of care to another for 30 days or more; and
- E. the resident is being discharged.

For purposes of the subpart, "substantial change" in financial status means a change that increases the person's net worth above

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Proposed Rules

the \$3,000 limit or a change in the person's monthly income. Substantial change must be reported to the facility financial officer ten days after the applicant or resident, legal representative, or spouse of the applicant or resident learns of the change.

Subp. 2. **Method of calculation.** The amount that a resident must pay, or have paid on the resident's behalf, as a maintenance charge must be determined as specified in items A and B.

A. If an applicant's or residents net worth exceeds \$3,000, the person's maintenance charge must be the full cost of care for the applicant's or resident's level of care less the United States Department of Veterans Affairs per diem reimbursement, when applicable, until the applicant's or resident's net worth is reduced to \$2,500.

B. If the applicant's or resident's net worth is less than \$2,500, the applicant's or resident's income must be considered in calculating the person's maintenance charge. The person's monthly maintenance charge is the person's total chargeable income, up to the full cost of care. The person's chargeable income must be calculated according to part 9050.0755.

9050.0570 MAINTENANCE CHARGE; NOTICE AFTER FINANCIAL STATUS REVIEW.

The facility financial staff shall notify the applicant or resident, legal representative of the applicant or resident, or spouse of the applicant or resident, of any change in the applicant's or resident's maintenance charge following a financial status review. The notice must include information about the right to a review of the maintenance charge under part 9050.0580.

9050.0580 REVIEW OF MAINTENANCE CHARGE DETERMINATION.

An applicant or resident or legal representative may request that the administrator of a board-operated facility reconsider a maintenance charge determination. The request must be in writing, directed to the administrator. The administrator shall, within ten days of receipt of the request, conduct a review of the maintenance charge determination. The review must be in the same format and time frames as the procedures under part 9050.0220. The administrator's determination is final upon receipt by the applicant or resident, or legal representative, and is the final agency action.

9050.0590 MAINTENANCE CHARGE; REFUND.

If an applicant or resident who has paid, or on whose behalf payment has been made of, the maintenance charge for a billing month, is discharged from a board-operated facility before the end of the month for which payment has been made, the applicant or resident is entitled to a refund. The amount of the refund to which an applicant or resident, or legal representative, is entitled must be calculated by prorating the monthly maintenance charge by the number of unused days.

9050.0600 PROPERTY LIMITATIONS.

Subpart 1. **General provisions of property ownership.** The equity value of all nonexcluded real and personal property owned by an applicant or resident must not exceed \$3,000. The facility financial staff must use the equity value of legally available real and personal property, except property excluded in subpart 2 or 3, to determine the resources available to or on behalf of an applicant or resident.

A. If real or personal property is jointly owned by two or more persons, the facility financial staff shall assume that each person owns an equal share. When the owners document greater or smaller ownership, the facility financial staff shall use that greater or smaller share to determine the equity value held by or on behalf of an applicant or resident. Other types of ownership, such as a life estate, must be evaluated according to law.

B. Real or personal property owned by or on behalf of an applicant or resident is presumed legally available unless the applicant or resident documents that the property is not legally available to the applicant or resident. If real or personal property is not legally available, its equity must not be applied against the limits of subparts 2 and 3. Examples of property not available to a person are an estate that has not been probated, property owned together with one or more other people that the facility financial staff determines cannot be liquidated or reduced to cash through exercise of the applicant's or resident's legal rights, and property of an applicant or resident who is determined incompetent by a court and whose guardianship is pending. The facility financial staff shall consider as available property that a person has failed to make available for purposes of gaining admission to a board-operated facility or avoiding payment of the maintenance charge. An example of a person's failure to make property available occurs when the person refuses to accept a share of an inheritance.

C. Real or personal property transferred by an applicant or resident in violation of part 9050.0650 is presumed legally available.

D. The facility financial staff shall consider as available an individual retirement account, Keogh account, or other pension or deferred compensation plan account. The facility financial staff shall evaluate the accounts on the basis of the funds deposited in the account and the interest accrued on the funds less the penalty for early withdrawal.

E. The facility financial staff shall consider as available the proceeds that a person receives in a tort settlement, whether the settlement is entered into by the person or the person's guardian. If the settlement is received as a one-time payment, the facility financial staff shall treat it as a lump sum. If the settlement is structured to be paid over a period of time, the facility financial staff shall evaluate the property on the basis of the discounted net present value of all funds that will be deposited at any time in the future.

In determining present value, an annual interest rate of six percent must be used. This item applies only to settlements entered into after the effective date of parts 9050.0010 to 9050.0900.

Subp. 2. **Real property limitations.** Real property owned by an applicant or resident must be excluded from consideration as an available resource, subject to the limitations in items A and B.

A. The facility financial staff shall exclude the homestead of an applicant or resident from consideration as a resource according to the provisions in subitems (1) to (4).

(1) The spouse of an applicant or resident or the dependent child or children of the applicant or resident, if any, must occupy the homestead.

(2) An applicant or resident or spouse of an applicant or resident who is purchasing real property through a contract for deed and using that property as a home is considered the owner of real property.

(3) The total amount of land that can be excluded under this subpart is limited as specified in *Minnesota Statutes*, section 510.02. Additional contiguous platted lots must be assessed as to their legal and actual availability according to subpart 1.

(4) When real property that has been used as a home by an applicant or resident, the spouse of an applicant or resident, or the dependent child or children of an applicant or resident is sold, the facility financial staff shall treat the proceeds from that sale as excluded property for a period of two years if the person intends to reinvest them in another home and maintains those proceeds, unused for other purposes, in a separate account. If the property is held jointly, any earnings that accrue on the sales proceeds before reinvestment or any excess proceeds not used for reinvestment must be treated as joint income or property and divided according to subpart 1, item A.

B. Real property being sold on a contract for deed must be excluded if the net present value of the contract in combination with other property does not exceed the limitations in parts 9050.0560 and 9050.0600. If the present value exceeds limitations, the contract must be sold. Proceeds from the sale must be treated as lump sum payments.

C. Real property that is rental property leased at a market rent and producing a net income must be excluded. If the property is sold, the proceeds must be treated as lump sum payments.

D. Real property on or in which the person operates a business that is anticipated to produce a net income must be excluded. If the property is sold, the proceeds must be treated as lump sum payments.

E. Real property that is not salable must be excluded. For purposes of this item, "not salable" means:

(1) two sources agree that the property is not salable due to a specified condition; or

(2) an actual sale attempt was made at a price not more than an estimate of the highest current market value obtained within six months of application for admission or since the last determination of the maintenance charge, but no offer to purchase was received.

For purposes of subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale. For purposes of subitem (2), "an actual sale attempt" means the individual has listed the property with a licensed real estate broker or salesperson or, if the property is offered for sale by the owner, the owner has affixed to the property a readable sign that includes the address or phone number of the owner and the owner has advertised the property for sale in the official newspaper of the county, the newspaper of largest circulation in the county, or the local shopper. The minimum period of an actual sale attempt is 90 consecutive days.

F. Other real property must be excluded according to federal law, federal regulations, or state law.

Subp. 3. **Other property limitations.** The facility financial staff shall exclude the value of the following personal property:

A. one motor vehicle, for personal use;

B. the value of a prepaid burial account, burial plan, burial contract, or burial trust up to \$2,500 for persons who are residents of a board-operated facility when the investment is made, regardless of the amount invested or value, if made by the person before admission to a board-operated facility;

C. 50 percent of property owned jointly with a spouse;

D. household goods and furniture and personal effects, wearing apparel, and jewelry regularly used by the applicant or resident in day-to-day living;

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Proposed Rules

E. the value of personal property needed to produce income, including tools, implements, farm animals and inventory, or capital and operating assets of a trade or business necessary to income production, and if the property is sold, the proceeds must be treated as lump sum payments; and

F. other personal property specifically excluded by federal law, federal regulation, or state law.

Subp. 4. **Separate account for excluded funds.** Funds excluded from consideration as an available resource by subpart 2 or 3 must be placed in an account separate from other funds to retain the exclusion. Upon application for admission and redetermination of a maintenance charge, the facility financial staff shall inform the person in writing of the requirement to place excluded funds in a separate account.

9050.0650 TRANSFERS OF PROPERTY.

Subpart 1. **Generally.** A person whose application for admission is pending or a current resident of a board-operated facility shall declare all transfers or sales of property within ten days of the transfer or sale. The value of property transferred or sold must be treated as an available resource for payment of the resident's maintenance charge. The value of the property transferred or sold that will be applied against the property limits in parts 9050.0560 and 9050.0600 is the market value of the property at the time of the sale or transfer less any encumbrances on the property. A transfer for purposes of preserving an estate for heirs is the same as a transfer for the purposes of establishing eligibility for admission to a board-operated facility or avoiding payment of a maintenance charge.

Subp. 2. **Permitted transfers.** Transfer or sale of property by or on behalf of an applicant or resident is permitted if the transfer or sale:

A. takes place more than 12 months before the person's admission to a board-operated facility;

B. is to the applicant's or resident's spouse or dependent child or children before the person's admission to a board-operated facility; or

C. is for market value with the proceeds available for payment toward the person's cost of care.

Subp. 3. **Fraudulent transfers.** A transfer or sale of property for less than market value within 12 months before admission or during the resident's stay in a board-operated facility, unless permitted under subpart 2, is presumed to be for the purpose of establishing or maintaining eligibility for admission to or continued residence in a board-operated facility or to avoid payment of the maintenance charge, unless the person furnishes convincing evidence to show that the transfer was for another purpose. Convincing evidence must include evidence that the person had no health or economic reasons to believe that nursing home or boarding care would be needed.

Subp. 4. **Loans of property.** An applicant or resident who lends property or on whose behalf property is loaned is considered to have transferred the property. The facility financial staff shall evaluate the transaction as a transfer of property under subparts 1 and 2. If the person receives adequate compensation for the loan or made the loan more than 12 months before the person's entrance into a board-operated facility, the facility financial staff shall honor the loan. Adequate compensation must be shown by a written loan agreement and receipt of payments according to the schedule in the agreement. If the loan is payable on demand, is due, or is otherwise negotiable, the property is presumed to be available to the applicant or resident. This presumption may be overcome by convincing evidence presented by the person that the loan will not be repaid. Interest payments made by the borrower to the person are considered income in the month received and an asset if retained. Principal payments made by the borrower to the person are considered as assets.

Subp. 5. **Unacceptable compensation for transfer of property.** Services are not considered acceptable compensation for the transfer or sale of property. For purposes of this subpart, "services" means labor performed by one person for another person or entity. Goods are not considered compensation unless supported by contemporaneous receipts or other evidence of expenditure. The purchase of paid up life insurance with no cash surrender value available to the person while the person is a resident or within 12 months before admission must be considered a transfer of an asset without acceptable compensation.

9050.0700 INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

Subp. 2. **Availability of income.** Income must be attributed to the person who earns it or to the beneficiary of the income according to items A and B.

A. Funds distributed from a trust, whether from the principal holding or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to or on behalf of an applicant or resident. Trusts are presumed legally available unless an applicant or resident can document by court order that the trust is not legally available. Trusts established other than by will by the person or the person's spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments are determined by one or more trustees who may

exercise discretion about the distribution to the person must be considered an available resource. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for admission to a board-operated facility or whether the discretion of the trustees is exercised. A trust fund established by the applicant or resident on behalf of another person within 12 months before admission or during the resident's stay in a board-operated facility must be considered transferred property under part 9050.0650.

B. Income from jointly owned property must be divided equally among the property owners unless the terms of ownership provide for a different distribution of equity.

Subp. 3. **Excluded income.** The facility financial staff shall exclude the following from calculation of the applicant's or resident's gross income:

A. earnings derived from participation in a work therapy program while the person is a participant in the program; and

B. 50 percent of income received by or paid to an applicant or resident and spouse, jointly.

9050.0710 CALCULATION OF GROSS INCOME.

The facility financial staff shall calculate gross income by adding together the amounts of income from sources in subparts 1 to 6.

Subpart 1. **Earned income.** Earned income is treated according to items A to C.

A. Sick leave and vacation payments for earned or accrued leave time are earned income.

B. Earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when the payments are received over a lesser period of time.

C. The earned income tax credit, whether received from an employer or from the federal government, is earned income. An applicant or resident or spouse of an applicant or resident who is eligible for the earned income tax credit is required to apply for it. An applicant or resident may choose to apply for the credit either when the applicant or resident files an income tax return for the year in which the applicant or resident was eligible or in advance through the applicant's or resident's employer.

Subp. 2. **Self-employment earnings.** The facility financial staff shall determine gross earned income from self-employment by totaling gross receipts. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month in which those expenses are paid, except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee federal insurance contributions act payments (FICA), employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which payment for those items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred except that gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 3. **Farm income.** Farm income is the difference between gross receipts and operating expenses, subject to the provisions about self-employment income. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods. Farm income must be annualized.

Subp. 4. **Rental income.** Income from rental property must be considered self-employment earnings when effort is expended by the owner to maintain or manage the property. When no effort is expended by the owner to maintain or manage the property, income from rental property must be considered unearned income. The facility financial staff shall total gross rental receipts to determine rental income. When an applicant or resident or spouse lives on the rental property, the facility financial staff shall divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of rooms to determine expense per room. The facility financial staff shall deduct expenses from rental income only for the number of rooms rented, not for rooms occupied by an applicant, resident, spouse, or household member.

Subp. 5. **Unearned income.** Unearned income is treated according to items A and B.

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Proposed Rules

A. An amount must be deducted for costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

B. Payments for illness or disability, except those payments described as earned income in part 9050.0710, subpart 1, item A, must be considered unearned income whether the premium payments are made wholly or in part by an employer or by an applicant or resident.

Subp. 6. **Lump sums.** Lump sums received by or on behalf of an applicant or resident must be considered earned income under subparts 1 to 4 or unearned income according to subpart 5. Lump sums are considered income in the month received and property if retained beyond the month of receipt, unless it is a contractual payment or retroactive payment of benefits.

9050.0720 CALCULATION OF NET INCOME; DEDUCTION FOR EMPLOYMENT EXPENSES.

Subpart 1. **Calculation method.** The facility financial staff shall calculate the net income of an applicant or resident by totaling all sources of gross income identified in part 9050.0710 and subtracting from gross income the applicable deductions allowed in subpart 2.

Subp. 2. **Deduction for employment expenses of applicant or resident.** The facility financial staff shall deduct the expenses in this part and parts 9050.0730 and 9050.0740 from gross income to determine net income. Deductible items include:

- A. state and federal income tax payments and withholdings consistent with the number of allowable exemptions;
- B. FICA payments;
- C. mandatory retirement fund payments;
- D. actual reasonable unreimbursed expenses of child care necessary to earn an income and paid to anyone other than a parent of the child;
- E. union dues;
- F. professional association dues if they are required to obtain or retain employment;
- G. health and dental insurance premiums whether mandatory or voluntary, if cost effective;
- H. cost of uniforms, tools, and equipment used on the job that are required to retain a job but are not furnished by the employer;
- I. cost of meals during employment hours for each day the person is employed;
- J. public liability insurance premiums if they are required by the employer when an automobile is used in employment and the premiums are not paid by the employer;
- K. court ordered support payments actually paid directly by the applicant or resident or withheld by the employer and transferred to a child or spouse not living with the applicant or resident or to a different former spouse of the applicant or resident;
- L. voluntary support payments for dependent spouse or household according to part 9050.0750;
- M. Medicare insurance payments;
- N. Medicaid spend-down payments actually made according to part 9505.0065, subpart 11;
- O. payment of documented debts, incurred prior to the person's admission to the board-operated facility, for which the person is legally responsible;
- P. educational expenses actually paid by the person that are not covered by United States Department of Veterans Affairs educational expense benefits or other government or private scholarships, loans, or grants if there is demonstrated progress by the person towards completion of an educational program as part of the person's individual care plan;
- Q. guardianship or conservatorship fees to the extent allowed by Minnesota law or by court order;
- R. hospital and medical insurance premiums and supplemental health care premiums for the resident or applicant, if cost effective; and
- S. cost of transportation related to employment. For the person who uses public transportation or takes part in a car pool, the facility financial staff shall deduct the fare or fee the person actually pays. For the person who uses a private motor vehicle, the facility financial staff shall deduct the amount per mile allowed on the most recent federal income tax return for actual miles driven for business purposes.

9050.0730 DEDUCTIONS FROM RENTAL INCOME.

In calculating net rental income, the facility financial staff shall deduct the rental property costs in items A to C from total rental receipts. The rental property costs must be prorated according to shares of ownership if the property is jointly owned. Money deducted from rental income under items A to C must be excluded as income in the month of receipt and as an asset if the funds are retained after the month of receipt. The retained funds must be placed in a separate account until used for:

A. upkeep and repairs, an annual amount equal to a maximum of two percent of the property's market value or a lesser amount as requested by the person;

B. real estate taxes, premiums for insurance on the property, and mortgage or contract for deed payments, payment of interest and principal; and

C. utilities specified as the owner's responsibility in the rental agreement.

9050.0740 DEDUCTIONS FROM SELF-EMPLOYMENT INCOME.

In calculating net self-employment income, the facility financial staff shall deduct from the total business receipts the costs of producing the income as allowed on the United States income tax schedule. However, capital expenditures, depreciation, and carryover losses claimed for business purposes on the most recent federal income tax return are not deductible business expenses. Net self-employment income, if greater than zero, must be added to other earned and unearned income to determine income for purposes of calculating the maintenance charge payable by or on behalf of an applicant or resident. Losses from self-employment income may not be deducted from other earned or unearned income.

9050.0750 DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR HOUSEHOLD.

Subpart 1. **Generally.** The facility financial staff shall deduct from the applicant's or resident's gross monthly income calculated under part 9050.0710 the amount necessary to meet the basic needs of the dependent spouse or household as calculated under this part. The applicant or resident or spouse of an applicant or resident who requests a deduction under this part must verify the monthly expenses of the dependent spouse or household that are not met by income or resources otherwise available to the dependent spouse or household.

Subp. 2. **Determination of spouse's monthly expenses.** A spouse's monthly expenses are the sum of:

A. monthly rent or house payment;

B. costs of supporting a dependent child or children residing with the spouse;

C. real estate taxes;

D. homeowner's or renter's insurance;

E. home maintenance costs;

F. electric and gas charges;

G. water and sewer charges;

H. solid waste removal charges;

I. telephone costs;

J. transportation costs, including costs of public transportation and costs of acquiring and maintaining a privately owned motor vehicle;

K. food;

L. clothing;

M. medical insurance for the spouse and the applicant's or resident's dependent child or children residing with the spouse;

N. medical expense payments;

O. personal needs of the spouse or dependent child or children;

P. payments for documented consumer debts incurred before the resident's admission to a board-operated facility for which the spouse is legally responsible; and

Q. support payments actually paid by the spouse to his or her former spouse or dependents who do not reside with him or her.

Subp. 3. **Calculation of amount of deduction.** The facility financial staff shall calculate the amount to be deducted from the applicant's or resident's monthly income for support of a dependent spouse or household as follows:

A. calculate the spouse's gross monthly income using the method for calculation of the applicant's or resident's gross income in part 9050.0710;

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Proposed Rules

- B. total the spouse's monthly expenses as determined under subpart 2;
- C. subtract item B from item A; and
- D. the amount by which item B exceeds item A is the amount allowed as a deduction for the dependent spouse or household.

9050.0755 CALCULATION OF CHARGEABLE INCOME OF APPLICANT OR RESIDENT.

The chargeable income of an applicant or resident is as follows:

- A. total the person's gross income according to part 9050.0710;
- B. subtract from the total gross income the applicable expenses or deductions in parts 9050.0720 to 9050.0750 to get the net income;
- C. subtract from net income \$85 for personal needs;
- D. multiply item C by 0.05 and deduct this amount from item C; and
- E. the sum calculated in item D is the applicant's or resident's monthly chargeable income.

9050.0760 ANTICIPATING INCOME.

Income must be anticipated on a semiannual basis for all applicants or residents. Anticipated income must be determined using the method in items A to G that most accurately reflects the circumstances of the person.

A. If income is unvarying in amount and timing of receipt, an eligibility statement or wage stub must be used to verify the amount of the income. Examples of unvarying income are social security payments, pensions, unemployment compensation, and fixed salaries. For purposes of this item, "eligibility statement" means a document from a payer informing the person of eligibility for the amount of income.

B. Income that is expected to fluctuate slightly must be anticipated by using the income in the month of admission or redetermination. Monthly income must be calculated by multiplying:

- (1) average weekly income by 4.3;
- (2) average biweekly income by 2.16; or
- (3) average semimonthly income by 2.

C. If income is expected to fluctuate but does not follow a seasonal pattern, monthly income is the average of monthly income received during the three most recent months.

D. If income fluctuates within a seasonal pattern but is reasonably stable from year to year, monthly income is the average of monthly income during the most recently completed calendar year.

E. Except as provided in item G, monthly farm income is the average of monthly income for the three most recent years during which the farm has been in operation.

F. Zero income must be used for any month in which no source of income is reasonably certain.

G. If the applicant or resident has had a recent financial change that makes a method in item C, D, or E an inaccurate predictor of future income, the facility financial staff shall make a reasonable estimate of future income and document the income basis used.

9050.0770 BENEFITS APPLICATION REQUIRED.

An applicant or resident or legal representative, if any, must apply for the maximum of every benefit for which the applicant or resident may be eligible that will increase the income of the applicant or resident. The board-operated facility staff shall provide an applicant or resident or legal representative information about possible available benefits or programs of assistance and assistance in making application for those benefits.

9050.0800 FINANCIAL INTERVIEW.

Subpart 1. **General conduct.** An applicant or resident must be present at an interview held to determine the applicant's or resident's ability to pay or to obtain financial information from the applicant or resident unless the applicant's or resident's presence is medically contraindicated by the attending physician of the applicant or resident. If the applicant's or resident's participation in the interview is medically contraindicated, the secondary source of information in part 9050.0810, subpart 2, must be present. The signed statement of the applicant's or resident's attending physician that attests to the medical contraindication must be placed in the applicant's or resident's financial information file.

Subp. 2. **Rights, duties, and consequences of interview.** Before conducting an applicant's or resident's interview to determine financial status or ability to pay, the interviewer shall:

- A. inform the person that the person may choose an individual to assist in the determination process and any other contact with the board or its designated representative by authorizing that assistance in writing;

B. inform the person that the requested information will be used to determine ability to pay and to calculate the resident's maintenance charge;

C. inform the person that financial information obtained from or about the applicant or resident may not be released without the applicant's or resident's written consent, except pursuant to *Minnesota Statutes*, chapter 13, to specific state and federal agencies including the Minnesota Department of Veterans Affairs, Legislative Auditor, and United States Department of Veterans Affairs;

D. inform the person of the person's legal obligation to provide sufficient information, required documents, and proof necessary to determine ability to pay and the consequences of failure to do so;

E. inform the person that failure to supply the requested information must result in a determination that the person is able to pay the full cost of care and that if a person supplies false information the resident may be subject to discharge;

F. provide the person with an information pamphlet on the cost of care and review with the applicant or resident how the board determines the cost of care and how the amount an applicant or resident must pay toward that cost is determined;

G. inform the person of county, state, and federal financial programs that may assist in paying the cost of care and meeting personal and family needs;

H. provide the person with board-approved forms used to verify or investigate financial resources including:

(1) statement of income and net worth;

(2) statement of expenses;

(3) authorization to release information;

(4) maintenance rate affidavits; and

(5) other disclosure and verification forms the board reasonably requests to fully evaluate the applicant's or resident's financial status or the financial status of the applicant's or resident's legal representative or spouse, if any; and

I. request that the person complete and sign the authorization forms provided and provide verification or documentation of financial information.

9050.0810 SOURCES OF FINANCIAL INFORMATION.

Subpart 1. **Applicant or resident primary source.** An applicant or resident is the primary source of financial information to determine ability to pay except when the management of the applicant's or resident's financial affairs is in the hands of a legal representative. If the applicant or resident is not the source of financial information, the reason must be noted in the applicant's or resident's financial information file.

Subp. 2. **Secondary or alternate sources of information.** If an applicant or resident is not able to act on the applicant's or resident's own behalf, the person interviewed to obtain financial information must be, in order of priority, the applicant's or resident's legal representative or spouse, if any.

9050.0820 VERIFICATION OF FINANCIAL INFORMATION.

Subpart 1. **Verification required.** Information provided by the applicant or resident, spouse, or legal representative, if any, in the financial interview, on the signed financial information form, and a financial status review under part 9050.0560, subpart 1, must be verified by the facility financial staff.

Subp. 2. **Information to be verified.** The following items must be verified:

A. income;

B. insurance benefits;

C. property;

D. expenses or deductions claimed;

E. number of dependents claimed;

F. social security benefits;

G. United States Department of Veterans Affairs benefits;

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Proposed Rules

H. pensions and annuities; and

I. transfers of property according to part 9050.0650.

Subp. 3. **Time of verification.** The facility financial officer must request verification of the required information no earlier than 60 days before admission and no later than the date of admission or date of financial status review or other review of financial status as provided in part 9050.0560, subpart 1.

9050.0900 AUTHORIZATION FORMS.

Subpart 1. **Required.** An applicant or resident, spouse, or legal representative, if any, shall provide a separate signed authorization form for each verification that must be obtained from a third party.

Subp. 2. **Content.** The authorization form must contain the following information above the person's signature:

- A. person's name;
- B. date;
- C. information authorized;
- D. who is authorized to give the information;
- E. to whom the information is to be given;
- F. information's use; and
- G. date of expiration of the authorization.

A separate form must be signed and completed for each authorization of access. The period of the authorization must not exceed one year.

Subp. 3. **Refusal to sign authorization forms; consequences.** The applicant or resident, applicant's or resident's legal representative, or spouse must complete the following tasks within 30 days of the financial interview or other authorized request:

- A. complete and sign a financial information or authorization form;
- B. apply for insurance or other benefits for which an applicant, resident, or spouse of an applicant or resident may be eligible;
- C. complete assignment of benefits forms required by third-party payers;
- D. sign authorizations for release of medical records; and
- E. provide verification of information given on financial disclosure forms.

Failure to comply with items A to E results in a determination that the applicant or resident can pay the full cost of care. Providing false information relating to items A to E results in disqualification of an application for admission or in discharge of a resident under part 9050.0200, item E. The maintenance charge must be redetermined or the application for admission must be reinstated or the discharge proceeding discontinued if the applicant, resident, or spouse takes the required action.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Pollution Control Agency

Adopted Permanent Rules Relating to Hazardous Waste

The rules proposed and published at *State Register*, Volume 13, Number 50, pages 2930-2932, June 12, 1989 (13 S.R. 2930) are adopted with the following modifications:

Rules as Adopted**7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND RECLAMATION.****Subp. 5. Requirements for use of hazardous wastes as feedstock.**

C. Transporters of hazardous wastes for use as feedstock must comply with all applicable requirements of *Minnesota Statutes*, sections 221.033 ~~to~~ and 221.034, and with 221.035 if applicable, and Code of Federal Regulations, title 49, parts 171 to 179.

Subp. 6. Requirements for reclamation of specific hazardous wastes.

A. A by-product or a sludge that is hazardous only because it exhibits a characteristic of hazardous waste and is reclaimed is subject to the following requirements:

(2) Transporters of such a hazardous waste must comply with all applicable requirements of *Minnesota Statutes*, sections 221.033 ~~to~~ and 221.034, and with 221.035 if applicable, and Code of Federal Regulations, title 49, parts 171 to 179.

7045.0371 TRANSPORTATION OF HAZARDOUS WASTE.

Hazardous waste shall be transported in accordance with all applicable requirements of *Minnesota Statutes*, sections 221.033 ~~to~~ and 221.034, and with 221.035 if applicable, and Code of Federal Regulations, title 49, parts 171 to 179 (1983).

Public Utilities Commission

Adopted Permanent Rules Relating to Purchase Gas Adjustment Charges

The rules proposed and published at *State Register*, Volume 13, Number 39, pages 2323-2329, March 27, 1989 (13 S.R. 2323) are adopted with the following modifications:

Rules as Adopted**7825.2400 DEFINITIONS.**

Subp. 6d. **Commodity-delivered gas cost.** "Commodity-delivered gas cost" is the ~~cost of gas~~ portion of the cost of purchased gas charged a distributing gas utility for its gas supplies and supply-related services ~~which, as defined in subpart 12, that~~ is a function of the volume of gas taken. It refers to the cost of purchased gas at the point at which the distributing utility takes title to the gas and, including associated costs incurred to bring deliver the gas to the utility's distribution system, including for example: gathering, transportation, processing, storing, and balancing costs, taxes, and other charges.

Subp. 12. **Cost of purchased gas; incorporation by reference.** "Cost of purchased gas" is the cost of gas as defined by the Minnesota uniform system of accounts, class A and B gas utilities, including accounts 800, 801, 802, 803, 804, 804.1, 805, 805.1, 806, 807, 808.1, 809.1, 810, ~~823, 842.1,~~ 854, and 858 for energy purchased, as provided by *Code of Federal Regulations*, title 18, part 201, as amended through April 1, 1988. These accounts are incorporated by reference. The cost of purchased gas also includes the normal and ordinary cost of injection and withdrawal of gas from storage at the time of withdrawal. All gas public utilities shall use this definition regardless of class.

Subp. 13b. **Demand-delivered gas cost:** "Demand-delivered gas cost" is ~~gas supply and supply-related service costs other than the commodity-delivered gas cost, including, for example, the fixed cost determined by contract, and other charges~~ the portion of the cost of purchased gas charged a distributing gas utility for its gas supplies and supply-related services, as defined in subpart 12, other than the commodity-delivered gas cost. It refers to the cost of purchased gas, including associated costs incurred to deliver the gas to the utility's distribution system.

7825.2700 PURCHASE GAS CHARGES, AUTOMATIC ADJUSTMENT.

Subp. 2. **New base gas cost.** A new base gas cost must be submitted as a miscellaneous rate change to coincide with the implementation of interim rates during a general rate proceeding. A new base gas cost must also be part of the rate design compliance filing submitted as a result of a general rate proceeding. The base gas cost ~~includes a~~ must separately state the commodity base cost and ~~a~~ the demand base cost components for each class. The base gas cost for each class is determined by dividing the estimated base period cost of purchased gas for each class by the estimated base period annual sales volume for each class.

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.

Department of Health

Notice of Completed Application and Notice of and Order for Hearing in the Matter of the License Application from County Emergency Medical Services, Fertile, Minnesota

PLEASE TAKE NOTICE that the Commissioner of Health (hereinafter "Commissioner") has received a completed application from County Emergency Medical Services, Fertile, Minnesota to provide specialized advanced ambulance service for areas described in a proposed primary service area within the Counties of Polk, Norman and Red Lake. The applicant also requests an expansion of current primary service area for emergency ambulance service within the City of Erskine.

IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* §§ 14.57 to 14.69 (1986) and 144.802 a public hearing will be held on 20 November 1989 at the Fertile Community Center, Fertile, Minnesota, commencing at 6:00 p.m. If you have an interest in this matter you are hereby urged to attend the public hearing. Failure to do so may prejudice your rights in this and any subsequent proceedings in this matter.

1. The purpose of the hearing is to determine whether the application from this ambulance service should be granted based upon the criteria set out in *Minnesota Statutes* § 144.802, subd. 3(g) (1988, and as modified by *Laws of Minnesota 1989*, Chapter 134, Section 3).

2. This proceeding has been initiated pursuant to and will be controlled in all aspects by *Minnesota Statutes* §§ 144.801 to 144.8093 (1988 and as modified by *Laws of Minnesota 1989*, Chapter 134, Section 3), Stat. §§ 14.57 to 14.69, and Rules for Contested Cases of the Office of Administrative Hearings, *Minnesota Rules* 1400.5100-1400.8402. Copies of the rules and statutes may be obtained for a fee from the Department of Administration, Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, telephone: (612) 297-3000.

3. Steve Mihalchick, Office of Administrative Hearings, 500 Flour Exchange, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone: (612) 341-7615, will preside as administrative law judge at the hearing, and will make a written recommendation on this application. After the hearing, the record and the administrative law judge's recommendation will be forwarded to the Commissioner to make the final determination in the matter.

4. Any person wishing to intervene as a party must submit a petition to do so under *Minnesota Rules* pt. 1400.6200 on or before 30 October 1989. This petition must be submitted to the administrative law judge and shall be served upon all existing parties and the Commissioner. The petition must show how the contested case affects the petitioner's legal rights, duties or privileges and shall state the grounds and purposes for which intervention is sought and indicate petitioner's statutory right to intervene if one exists.

5. In addition to or in place of participating at the hearing any person may also submit written recommendations for the disposition of the application. These recommendations must be mailed to the administrative law judge on or before 10 November 1989.

6. Any subpoena needed to compel the attendance of witnesses or the production of documents may be obtained pursuant to *Minnesota Rules* pt. 1400.7000.

7. At the hearing the applicant will present its evidence showing that a license should be granted and that all persons will be given an opportunity to cross-examine witnesses, to be heard orally, to present witnesses, and to submit written data or statements. All persons are encouraged to participate in the hearing and are requested to bring to the hearing all documents, records, and witnesses needed to support their position. It is not necessary to intervene as a party in order to participate in the hearing.

8. Please be advised that if non public data is admitted into evidence, it may become public data unless an objection is made and relief is requested under *Minnesota Statutes* § 14.60, subd. 2(1986).

9. You are hereby informed that you may choose to be represented by an attorney in these proceedings, may represent yourself, or be represented by a person of your choice if not otherwise prohibited as the unauthorized practice of law.

10. A Notice of Appearance must be filed with the administrative law judge identified above within 20 days following receipt of the Notice by any person intending to appear at the hearing as a party.

11. In accordance with the provisions of *Minnesota Statutes* § 14.61 (1986), the final decision of the Commissioner in this proceeding will not be made until the Report of the Administrative Law Judge has been made available to the parties in this proceeding for at least 10 days. Any party adversely affected by the Report of the Administrative Law Judge has the right to file exceptions and present arguments to the Commissioner. Any exceptions or arguments must be submitted in writing and filed with the Commissioner of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, within 10 days of the receipt of the Administrative Law Judge's Report.

Department of Public Safety

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing One Call Notification System, Reporting Requirements, Enforcement and Sanctions, Drug Testing, and Training Requirements

NOTICE IS HEREBY GIVEN that the State Department of Public Safety, Office of Pipeline Safety, is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the one call notification system, reporting requirements, enforcement and sanctions, drug testing, and training requirements. The adoption of the rule is authorized by *Minnesota Statutes*, chapters 229F.56 to 299F.641, 299J and 216D.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

William Barbeau, Director
Office of Pipeline Safety
130 Market House
289 East Fifth Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-9636 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Department of Public Service

Energy Division

Correction of Notice of Extension of Deadline

The deadline of October 1, 1989, by the Department of Public Service to seek opinions and information on proposed amendment to *Minnesota Rules* Chapter 7670 [formerly designated as *Minnesota Rules* 4215] governing energy matters within the State Building Code was established by publication June 19, 1989 [not June 27, 1989]. The deadline has been extended to December 21, 1989.

Department of Public Service

Energy Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Residential Thermal Insulation Standards

NOTICE IS HEREBY GIVEN that the State Department of Public Service is seeking information or opinions from sources outside the agency in preparing to propose the amendment of *Minnesota Rules* Chapter 7640 governing Residential Thermal Insulation Standards. The adoption of the rule is authorized by *Minnesota Statutes*, section 325F.20 subdivision 1 and 325F.21 subdivisions 1 and 2, which requires the agency to establish standards for the product quality, safety, installation, and labeling of thermal insulation products, and to establish test programs and procedures to ensure that standards established by this chapter are met.

The State Department of Public Service requests information and opinions concerning the subject matter of the rule, including: revised ASTM standards, spray applied cellulose, standards for other insulation products and test standards and application requirements for insulation intended for exterior foundation wall installation. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Bruce Nelson, Senior Engineer
Department of Public Service, Energy Division, St. Paul, Minnesota 55101
900 American Center Building, 150 East Kellogg Boulevard, (612) 297-2313

Official Notices

Oral statements will be received during regular business hours over the telephone and in person at the above address.

All statements of information and opinions shall be accepted until January 2, 1989. Any written material received by the State Department of Public Service shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 29 September 1989

Tony Perpich
Commissioner

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is October 31, 1989.

ELEMENTARY-SECONDARY-VOCATIONAL (ESV) COMPUTER COUNCIL

Board of Education, Capitol Square Bldg., 550 Cedar St., St. Paul 55101. 612-297-3752

Minnesota Statutes 121.934 as amended by *Laws of 1989*

APPOINTING AUTHORITY: Governor. COMPENSATION: None.

VACANCY: One member, urban school district administrator from either Congressional District 6 or Congressional District 2.

The council advises and assists the Board of Education in the development of plans and standards for ESV-IS (elementary, secondary, and vocational education) and SDE-IS (State Department of Education) information systems. Fourteen members to include one administrator from a rural school district, one administrator from an urban school district, one school board member from an urban district, one school board member from a rural district, one teacher from a rural school district, one teacher from an urban school district; three private sector managers of whom at least two are data processing managers; three public sector managers of whom at least two are data processing managers; one person representing post-secondary vocational technical education, and one person from the Department of Education. Public and private sector managers shall not be employees or board members of school districts or the Department of Education. The Council should include at least one resident of each congressional district.

MN CRIME VICTIM AND WITNESS ADVISORY COUNCIL

Dept. of Public Safety, 211 Transportation Bldg., St. Paul 55155. 612-296-6642

Minnesota Statutes 611A.70

APPOINTING AUTHORITY: Commissioner of Public Safety. COMPENSATION: None.

VACANCY: Two members, crime victim assistance representatives.

The council reviews on a regular basis the treatment of victims by the criminal justice system and the need and availability of services to crime victims. Twelve members include two members of the Minnesota legislature who have demonstrated expertise and interest in crime victim issues, one from each house; one district court judge; one county attorney; one public defender; one peace officer; one medical or osteopathic physician licensed to practice in this state; five members who are crime victims or crime victims assistance representatives; three public members. The appointments should take into account sex, race and geographic distribution.

MATERNAL AND CHILD HEALTH ADVISORY TASK FORCE

Dept. of Health, Maternal and Child Health Division, Box 9441, 717 Delaware St. S.E., Mpls 55440. 612-623-5459

Minnesota Statutes 145.881

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: Reimbursed for expenses.

VACANCY: Two members—one consumer representative interested in the health of mothers and children, and one representative of a community health board as defined in *Minnesota Statutes* 145A.02, subdivision 5, with knowledge, experience, and interest in MCH programs, issues, and problems.

The task force meets to review and report on the health care needs of mothers and children throughout the state of Minnesota. Fifteen members will provide equal representation from five professionals with expertise in maternal and child health services, five representatives of local health boards as defined in *Minnesota Statutes* 145A.02, and five consumer representatives interested in the health of mothers and children. No member may be employees of the state Department of Health.

BOARD OF OPTOMETRY

2700 University Ave. W., Suite 103, St. Paul 55114. 612-642-0594
Minnesota Statutes 148.52

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem plus expenses.
VACANCY: One public member.

The board licenses optometrists, adopts rules, and investigates complaints. Seven members include five licensed optometrists and two public members. Members must file with the Ethical Practices Board.

CHILDREN'S TRUST FUND ADVISORY COUNCIL

333 Sibley St., Suite 567, St. Paul 55101. 612-296-5437
Minnesota Statutes 299.23 as amended by Laws of 1989

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem plus expenses.
VACANCY: One member, knowledgeable in matters related to child maltreatment. Preference: knowledge and experience in child development and education.

The council recommends strategies to promote education, programs and services that support parents and families and thereby prevent child abuse and neglect; and makes recommendations regarding grants to be awarded to fund child maltreatment prevention programs. The governor appoints ten members who have a demonstrated knowledge in the area of child abuse and represent the demographic and geographic composition of the state, local government, parents, racial and ethnic minority communities, religious community, professionals and volunteers. The commissioners of human services, health, education and corrections each appoint one member. The legislature appoints two senators and two representatives, each with one member from both caucuses. Three hour meetings once a month for ten months of the year, and for two consecutive days in July.

ADVISORY COUNCIL ON PLUMBING CODE AND EXAMINATIONS

717 Delaware St. S.E., Mpls 55440. 612-623-5328
Minnesota Statutes 326.41

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: Reimbursed for expenses.
VACANCY: One member.

The council examines and licenses plumbers and recommends revisions to the plumbing code and licensing rules. Seven members include one journeyman plumber, one master plumber, and one representative of the Commissioner of Health. Quarterly meetings.

STATE ADVISORY COUNCIL ON MENTAL HEALTH

444 Lafayette Rd., St. Paul 55155-3828. 612-297-4164
Minnesota Statutes 245.697

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem. Reimbursed for expenses.
VACANCY: One member, must be a representative of the Minnesota Mental Health Law Project.

The council advises the governor, the legislature, and state agency heads about policy, programs, and services affecting people with mental illness. Thirty members include commissioner designees from the Departments of Education, Corrections, Vocational Rehabilitation, and the Housing Finance Agency, one representative from the state agency responsible for the state's Title XIX program, one member from each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing); one representative from each of the following advocacy groups: Mental Health Association of MN, MN Alliance for the Mentally Ill, MN Mental Health Law Projects; providers of mental health services, consumers of mental health services, family members of persons with mental illnesses, legislators, social service agency directors, county commissioners, and other members reflecting a broad range of community interest.

MN PUBLIC FACILITIES AUTHORITY

Dept. of Trade and Economic Development, American Center Bldg., 150 E. Kellogg Blvd., St. Paul 55101. 612-296-5005
Minnesota Statutes 446A.03

APPOINTING AUTHORITY: Governor. Senate confirmation. COMPENSATION: Reimbursed for expenses.
VACANCY: One public member.

The authority is responsible for managing grant and loan programs for assisting state or local jurisdictions in financing water and wastewater treatment systems. Seven members include three public members appointed by the governor and four ex-officio members. Members must file with the Ethical Practices Board.

Department of Trade and Economic Development

Community Development Division

Performance Evaluation Report Available to the Public on the 1989 Small Cities Development Program

NOTICE IS HEREBY GIVEN that the 1989 Small Cities Development Program (SCDP) Performance Evaluation Report (PER) is available for public review and comment. Section 104(a)(2)(D) and (E) of the Housing and Community Development Act requires the state to make the mandatory PER available to the public prior to its submission to the U.S. Department of Housing and Urban Development. The PER consists of a listing of all of the funded SCDP projects, including proposed and accomplished goals. Inquiries about the PER should be directed to:

Louis Jambois
Minnesota Department of Trade and Economic Development
9th Floor, American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
612/297-3172

Department of Transportation

Amended Order 75314 and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minnesota Statutes* § 169.825

WHEREAS, the Commissioner of Transportation has made his Order No. 72156, dated April 8, 1987, which order has been amended by Orders Nos. 73139, 74653, 74846, 75024, 75110, and 75193 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under *Minnesota Statutes* § 169.825, and

WHEREAS, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under *Minnesota Statutes* § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 72156 is further amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

COUNTY ROADS

Rock County

- C.S.A.H. 3 From C.S.A.H. 4 to C.S.A.H. 15 (12 month).
- C.S.A.H. 4 From C.S.A.H. 25 to C.S.A.H. 6 in Beaver Creek (12 month).
- C.S.A.H. 4 From C.S.A.H. 3 to C.S.A.H. 27 in Magnolia (12 month).
- C.S.A.H. 13 From South Dakota state line to T.H. 270 (12 month).
- C.S.A.H. 15 From 1000 feet west of C.S.A.H. 3 to C.S.A.H. 3 (12 month).
- C.S.A.H. 17 From the Iowa state line to C.S.A.H. 13 (12 month).
- C.S.A.H. 23 (Main Street) From 3rd Street to T.H. 270 in Hills (12 month).
- C.S.A.H. 25 From C.S.A.H. 4 to 230 feet east of 2nd Street on 1st Avenue in Beaver Creek (12 month).
- C.S.A.H. 27 (Broadway Street) from State Street to C.S.A.H. 4 in Magnolia (12 month).

Dated: 27 September 1989

Leonard W. Levine
Commissioner

State Board of Vocational Technical Education

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Rules for Licensure of Postsecondary Technical Education Personnel

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education is seeking information or opinions from sources outside the agency in preparing to amend Chapter Thirty-Five: Rules for Licensure of Vocational Technical Education Personnel and specifically in Student Developmental Services Licenses: Counselor, Interpreter for the Deaf, Vocational Advisor, Student Developmental Services Supervisor; General education and general studies; General licensure rules: Voluntary surrender of teacher licenses; New Ventures: Marketing Occupations, Customer Service Management, Postal Service Management; Health Occupations: Athletic Medicine Technology; Technical Occupations, Electronics Technology. Promulgation of these rules is authorized by *Minnesota Statutes* § 136C.04, subd. 9. and 125.185 subd. 4.

The State Board of Vocational Technical Education requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit written statements of information or comment orally. Written comments should be addressed to:

Ms. Glenda Moyers
State Board of Vocational
Technical Education
100 Capitol Square Bldg.
550 Cedar Street
St. Paul, MN 55101
(612) 296-9444

Ms. Georgia Pomroy
State Board of Vocational
Technical Education
100 Capitol Square Bldg.
550 Cedar Street
St. Paul, MN 55101
(612) 296-0680

Oral statements will be received during regular business hours over the telephone at (612) 296-0680 or in person at the above address.

All statements of information and comments shall be accepted until 4:30 p.m., Tuesday, November 7, 1989. Any written material received by the State Board of Vocational Technical Education shall become part of the record to be submitted to the Attorney General or Administrative Law Judge in the event the rule is adopted.

Helen Henrie, Deputy Director
State Board of Vocational
Technical Education

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.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information. Thank you.

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.

State Contracts and Advertised Bids

Commodity: Van with modifications
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: October 10
Agency: Jobs & Training
Deliver to: Hutchinson
Requisition #: 21605 72310

Commodity: Copier purchase
Contact: Teresa Ryan 296-7556
Bid due date at 2pm: October 13
Agency: Community College
Deliver to: Thief River Falls
Requisition #: 27140 48220

Commodity: Survey supplies
Contact: John Bauer 296-2621
Bid due date at 2pm: October 13
Agency: Transportation
Deliver to: St. Paul
Requisition #: 79000 03149

Commodity: Computer to film converter
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 13
Agency: Human Services
Deliver to: St. Paul
Requisition #: 55000 02423

Commodity: Modules for HP71B
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 13
Agency: Transportation
Deliver to: St. Paul
Requisition #: 79000 03151

Commodity: Underbody snow plow—
Addendum #1
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: October 13
Agency: DOT—Central Shop
Deliver to: St. Paul
Requisition #: 79382 01803 1

Commodity: Traffic signal equipment
and replacement parts
Contact: Pat Anderson 296-1053
Bid due date at 2pm: October 13
Agency: Transportation
Deliver to: Various
Requisition #: Price Contract

Commodity: License plate dies
Contact: Douglas Thompson 296-3775
Bid due date at 2pm: October 16
Agency: St. Cloud Reformatory
Deliver to: St. Cloud
Requisition #: 07700 61155

Commodity: Ethernet cards
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 16
Agency: Health
Deliver to: Minneapolis
Requisition #: 12500 42546

Commodity: Unisys 2200/611
Computer System
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 16
Agency: Secretary of State
Deliver to: St. Paul
Requisition #: 53000 02582

Commodity: Foot mops
Contact: Dale Meyer 296-3773
Bid due date at 2pm: October 16
Agency: Various
Deliver to: Various
Requisition #: Price Contract

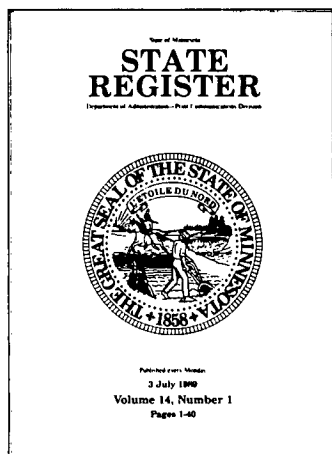
Commodity: Microsoft software
Contact: Joan Breisler 296-9071
Bid due date at 2pm: October 16
Agency: Housing Finance Agency
Deliver to: St. Paul
Requisition #: 34000 06133

Commodity: Software
Contact: Joan Breisler 296-9071
Bid due date at 2pm: October 16
Agency: Housing Finance Agency
Deliver to: St. Paul
Requisition #: 34000 06134

Commodity: Electrofishing boat
& trailer
Contact: Douglas Thompson 296-3775
Bid due date at 2pm: October 26
Agency: Natural Resources Department
Deliver to: Brainerd
Requisition #: 29003 05552

Commodity: Trucks — dump type
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: October 26
Agency: Transportation Department —
Central Shop
Deliver to: St. Paul
Requisition #: 79382 01828

The "inside scoop" on OVER \$1 BILLION in annual business contracts.



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: professional, technical and consulting services, commodities, printing, equipment, supplies, food items, and a wide variety of special services.

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An annual subscription is \$195 for both the Monday and Thursday editions, or \$130 for just the Monday edition if you're only interested in state agency rulemaking information. A 13-week trial subscription for \$60 includes both the Monday and Thursday editions. MasterCard/VISA and American Express orders can be taken over the phone, otherwise prepayment is required. Send, or FAX (612/296-2265), your orders to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Let us bring you the business of state government. Subscribe to the **STATE REGISTER** today, or call (612) 296-0931 for more information.

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 Administration: Print Communications Division

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: Interoffice envelopes, 150M 4 1/8" x 9 1/2" bankerflap 24# buff kraft, one hole in center, 500/box, type to set, 2-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Administration Department—Central Stores
Deliver to: St. Paul
Requisition #: 2078

Commodity: Arts Board News, 7 separate issues of a quarterly 8-page tabloid, 8 1/2" x 11" 8M per issue, 2-color, 6-8 halftones, camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: State Arts Board
Deliver to: St. Paul
Requisition #: 1883

Commodity: Titled registration card, 300M, 12" x 3 1/2" folded twice to 5 1/2" x 3 1/2", camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 2086

Commodity: State flower label, 3M 2 1/4" x 2 1/4", dull gold foil pressure sensitive, type to set, 1-sided, kiss or die cut on sheets or rolls
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Agriculture Department—Commissioner's Office
Deliver to: St. Paul
Requisition #: 2011

Commodity: Envelopes, 5M 9 1/2" x 12 1/2" + flap, 2-sided, 28# kraft, self seal gummed
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 2062

Commodity: Envelopes, 5M 9 1/2" x 12 1/2" + flap, 2-sided, 28# kraft, self seal gummed
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 2062

Commodity: "You Can Make a Big Impression" brochure, 100M 7 1/4" x 8 1/2" folded to 5 3/8" x 8 1/2", camera ready, 2-sided, 2-color
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 1992

Commodity: Certificate on sale/Sunday liquor license, 3M 9 1/2" x 14" incl. pin feeds, fan fold 2-up continuous, type to set, 1-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 1995

Commodity: Ambulance report form, 75M, 3-part sets (50 sets to a pad), preprinted numbering, 8 1/2" x 12 1/8" overall, negs available, 1-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 1815

Commodity: Company renewal notice, 1700 sets 3-part continuous form, 8 1/2" x 7" detached, preprinted numbering, type to set + negs, 1-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Commerce Department
Deliver to: St. Paul
Requisition #: 1961

Commodity: Regional ambulance run report, 1M, 3-part sets, 50 sets per pad, 8 1/2" x 12 1/8" overall, negs available, 1-sided, preprinted numbering
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 1816

Commodity: Report of vulnerable adult maltreatment, 2,500 2-part sets, 8 1/2" x 14" detached, negs furnished, pt. 1 1-sided, pt. 2 2-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 2020

Commodity: Plant maintenance service request, 25M 3-part sets, negs furnished, 1-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Human Service Department
Deliver to: St. Paul
Requisition #: 2021

Commodity: Summary, 2M 4-part sets, 8 1/2" x 11 3/4" incl. stub., negs available, 1-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 2023

Commodity: Chemistry I, 10M 3-part form, 3 3/4" x 5" with stub, negs available, 1-sided
Contact: Printing Buyer's Office
Bids are due: October 11
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 2022

State Contracts and Advertised Bids

Commodity: Dealer purchase receipt,
180M 5½"x3" 3-part sets, pts 1 & 2 1-
sided, pt 3 2-sided, negs available

Contact: Printing Buyer's Office

Bids are due: October 11

Agency: Public Safety Department

Deliver to: St. Paul

Requisition #: 2124

Commodity: Staff development record,
30M 2-part form, 7½"x3¾", overall,
camera ready, 1-sided

Contact: Printing Buyer's Office

Bids are due: October 11

Agency: Human Services Department

Deliver to: St. Paul

Requisition #: 2024

Commodity: Envelopes, 9M 6½"x9½"
w/clasp, 28# Kraft, 1-sided

Contact: Printing Buyer's Office

Bids are due: October 13

Agency: State Health Department

Deliver to: Minneapolis

Requisition #: 2167

Commodity: Authorization for services
& commodities, 5M 3-part sets,
9½"x11" overall, negs available,
1-sided

Contact: Printing Buyer's Office

Bids are due: October 11

Agency: Health Department

Deliver to: Minneapolis

Requisition #: 2061

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Minnesota's Bookstore offers several subscription services of activities, awards, decisions and special bulletins of various Minnesota state agencies.

Use the handy order form on the back of the *State Register* to order. Simply fill in the subscription code number, include your name, address and zip and your check made out to the State of Minnesota (PREPAYMENT IS REQUIRED) and send it in. We'll start your subscription as soon as we receive your order, or whenever you like.

SUBSCRIPTION	COST	CODE NO.	SUBSCRIPTION	COST	CODE NO.
Career Opportunity Bulletin, 1 year	\$ 25.00	90-3	State Register, Monday edition only, 1 year	\$130.00	90-1
Career Opportunity Bulletin, 6 mos.	\$ 20.00	90-4	State Register, Monday and Thursday editions, 1 year	\$195.00	90-1
Human Services Informational and Instructional Bulletin	\$100.00	90-6	Trial State Register, 3-months, Monday and Thursday	\$ 60.00	90-2
Human Services Bulletin List	\$ 55.00	90-7	Tax Court/Property Decisions	\$225.00	90-11
PERB (Public Employee Relations Board) Awards and Decisions, 1 year	\$285.00	90-9	Workers Compensation Decisions, unpublished subs run Jan-Dec; can be prorated	\$320.00	90-12
Minnesota Statutes Subscription. Includes the complete 10-volume set of Minnesota Statutes 1988	\$140.00	18-8	Workers Compensation Decisions Vol. 41	\$110.00	
			Minnesota Rules, Set + Supplement	\$160.00	18-200
			Minnesota Statutes, Set + Supplement	\$140.00	18-8

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NOTARY PUBLIC LAWS

Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of office and procedures for removal from office. Code No. 2-13. \$4.00.



Jane Smith

NOTARY PUBLIC-MINNESOTA

RAMSEY COUNTY

My Commission Expires January 1, 1994

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Stock #:16-41, \$4.50 + tax

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Stock #:16-68, \$5.50 + tax

Small Business Finance

Stock #:16-42, \$2.00 + tax

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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.

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Department of Administration

Information Policy Office

Notice of Request for Proposals for Information Architecture Curriculum Consulting Services

The Information Policy Office of the Department of Administration is requesting proposals from qualified consultants experienced in information architecture, adult education, and curriculum design. Assistance is required to provide training to Information Policy Office staff on the theory and practice of all aspects of information architecture. The desired approach is for the selected consultant to serve as a coordinator and general contractor for design and delivery of the curriculum to the Information Policy Office staff by a number of different specialized trainers. The training will occur between December 1, 1989 and June 30, 1990. The total cost of the services, including subcontractor costs, shall not exceed \$75,000.

For a copy of the Request for Proposals, please contact:

Information Policy Office
50 Sherburne Avenue, 309 Administration Building
Saint Paul, MN 55155
Telephone: 612/296-5643

Department of Corrections

Faribault Correctional Facility

Notice of Request for Proposals for Primary Care Physician Services

NOTICE IS HEREBY GIVEN that the Minnesota Department of Corrections is seeking the service of a primary care physician. These services are to be performed at the Minnesota Correctional Facility—Faribault. On-site coverage will be provided up to six hours per week, with on-call responsibilities for phone orders during the normal workday. Contract vendor will also serve as the facility Medical Director advising the Warden of the facility on matters of safe and timely health care. The DOC will utilize a managed care approach to health care. Cases are referred to outside contract consultants according to the Department policy on level of care.

For additional information, contact:

Dana P. Baumgartner, Health Care Administrator
Department of Corrections
300 Bigelow Building
450 North Syndicate Street
St. Paul, Minnesota 55104
Phone: (612) 642-0248

Or Lou Stender at the MCF—Faribault
Phone: (507) 334-0703

Proposals for the above contract must be submitted no later than Friday, October 27, 1989, by 4:30 p.m.

State Designer Selection Board

Request for Proposal for Three Projects

To Registered Professional in Minnesota:

The State Designer Selection Board has been requested to select designer for three projects. Design firms who wish to be considered for this project should deliver proposals on or before 4:00 p.m., October 31, 1989, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.

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3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4) Mandatory Proposal contents in sequence:

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named in 4B above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) pages. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5) Statutory Proposal Requirements:

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

The proposal will not be accepted unless it includes one of the following:

a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or

b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights;

or

c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or

d) A statement certifying that the firm has an application pending for a certificate of compliance.

6) Design firms wishing to have their proposals returned after the State's review must follow one of the following procedures:

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the State has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7a) PROJECT—46-89

Crawford/McElroy Residence Hall & Commons Complex
Remodeling and Renovation
Mankato State University

PROJECT BUDGET: \$3 million for preparation of the facility program: including schematic design, design development, construction documents, bidding, construction, furnishings, and equipment.

SCOPE OF PROJECT: Plan, construct, furnish, and equip Crawford/McElroy interior remodeling and renovation. Plan for a future Crawford/McElroy project.

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PROJECT GROSS SQUARE FEET (GSF): Crawford/McElroy space totals approximately 450,200 GSF: 162,500, 208,800, and 78,900 GSF for Crawford, McElroy, and Crawford/McElroy Commons respectively. Remodeling and renovation will be confined to the Commons food service and all bathrooms in two or three wings of McElroy.

PROGRAM SUMMARY:

1. Furnish, remodel, and renovate the Commons food service. This is a total remodeling of the production area by relocating receiving, storage, preparation, dishwashing, and serving functions, conversions to gas appliances, and replacement of equipment. The seating area will be reconfigured and completely remodeled, including installation of air conditioning, and be refurnished. All ventilation and exhaust systems (production, serving, and dining) will be redone.

2. Replace storm, sanitary, and domestic water systems/piping in bathrooms of two halls (four floors each hall). This includes all mains and risers. Remodel and renovate, with new fixtures, including ventilation, electrical, lighting, and heating systems, and insure handicapped accessibility.

3. Provide preliminary design and cost estimate to totally remodel and refurnish the interior of two halls (to be specified later) in the Crawford/McElroy complex. This plan, for a future project, shall be comprehensive and shall include all spaces (student rooms, lounges, shower/toilet, service, other).

Architectural firms that plan to submit a proposal should make a campus visit to understand the integration and scheduling of the project with the existing camp facilities and usage. Advance arrangements can be made by contacting Lester J. Gieneart, Assistant Vice President for Facilities Planning, Mankato State University.

SITE: Crawford/McElroy residence hall complex occupies approximately a one square block area at the northwest corner of the campus.

PURPOSE OF PROJECT:

Commons food service

- Improved traffic control
- Improved serving efficiency
- Segregation of food preparation and soil/waste operations
- Flexible use of production, serving, and seating to accommodate varied student and staffing needs
- Disfunctional equipment replaced

McElroy E, F, and G bathrooms

- Replacement of deteriorated piping fixtures and finishes
- Handicapped accessible bath facilities
- Upgraded to current standards for privacy and hygiene

Three additional wings

- Plan for future interior renovations

BUILDING CONSTRUCTION: All construction will be interior. All materials and equipment will be approved by the University and the Board Office, and must be compatible with existing materials and design which remain.

ARCHITECTURAL RESPONSIBILITIES: The architect shall be responsible for, but not limited to, such tasks as: review of the University's space program, preparation of preliminary schematics and cost estimates, project design, preparation of final working drawings and specifications required for bidding, and project administration during construction, including but not limited to preparation of construction change orders, review and approval of shop drawings and payment requests, oversight of project construction for owner (including on-site observation), and project acceptance.

Prior experience with the design and construction of large group facilities is desirable. Food service consultant will be required; must be approved by Minnesota State University System.

Consultant's fee shall be fixed, and shall be computed as a percentage of the amount budgeted by the State for construction. Consultant's proposal shall state Consultant's policy concerning additional Consultant service resulting from acceptable low bid exceeding or falling short of the construction budget.

ARCHITECTURAL FEE: 7% of the Allocated Construction Cost.

UNIVERSITY CONTACT:

Lester J. Gieneart
Assistant Vice President for Facilities Planning

Professional, Technical & Consulting Contracts

Mankato State University, Mankato, MN 56002
(507) 389-2226

STATE UNIVERSITY SYSTEM CONTACT:

David Hardin, Coordinator of Facilities Management
Minnesota State University System
555 Park Street, Suite 230, St. Paul, MN 55103
(612) 296-6624

7b) PROJECT—47-89

Centennial Student Union
Expansion & Remodeling
Mankato State University

PROJECT BUDGET: \$4.0 million for preparation of the facility program: including schematic design, design development, construction documents, bidding, construction, furnishings, and equipment.

SCOPE OF PROJECT: Plan, construct, equip, and furnish an addition to the existing student union. The project will include new construction and remodeling.

PROJECT GROSS SQUARE FEET (GSF): The addition is expected to be approximately 27,000 GSF with exact dimensions determined following the program review phase. Remodeling, required to reassign space and relocate activities, is expected to total approximately 6,000 GSF.

PROGRAM SUMMARY

The facility expansion/remodeling will affect the following spaces:

New Spaces

International student office
KRNR radio station
Credit union
Meeting rooms
Student activities and organizations
Lounge and gallery space
Student counseling and health service
Bookstore
Student association
Reporter/Muse/Back shop (student publications)
South entry

Various Remodeled Spaces

As required to reassign space and relocate activities as specified in the program.

Provision should be made to receive a tunnel connection from the library and eventually a proposed academic building.

Architectural firms that plan to submit a proposal should make an on-site visit to understand the integration of the project with the existing student union and other campus facilities. Advance arrangements can be made by contacting Lester J. Gieneart, Assistant Vice President for Facilities Planning, Mankato State University.

SITE: Centennial Student Union is located at the approximate center of the Mankato State University campus adjacent to Wigley Administration Building and directly across the mall from the south side of the library. The addition will be at the west end of the building.

PURPOSE OF PROJECT:

- A new entrance for access from the south end of the campus
- Bookstore expansion
- KRNR radio station expansion
- Student publications expansion

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- New lounge spaces and meeting rooms
- Facilities for counseling and health service
- Student exchange and rental shop
- Mankato State Student Association expansion

BUILDING CONSTRUCTION: New construction shall blend in (roof lines, landscape, and architecture) with the existing student union, and shall be concrete structural frame, exterior brick/stone with a concrete masonry unit (CMU) backup structure. The brick and stone—size and color—shall be consistent with the existing materials. Similarly, the structure height/profile and window size/profile will match or be compatible with existing.

Abatement of asbestos containing materials, not part of this project, will be done prior to construction.

ARCHITECTURAL RESPONSIBILITIES: The architect shall be responsible for, but not limited to, such tasks as: review of the University's space program, preparation of preliminary schematics and cost estimates, project design, preparation of final working drawings and specifications required for bidding, and project administration during construction, including but not limited to preparation of construction change orders, review and approval of shop drawings and payment requests, oversight of project construction for owner (including on-site observation), and project acceptance.

Prior experience with the design and construction of large group facilities is desirable.

Consultant's fee shall be fixed, and shall be computed as a percentage of the amount budgeted by the State for construction. Consultant's proposal shall state Consultant's policy concerning additional Consultant services resulting from acceptable low bid exceeding or falling short of the construction budget.

ARCHITECTURAL FEE: 6% of the Allocated Construction Cost.

UNIVERSITY CONTACT:

Lester J. Gieneart
Assistant Vice President for Facilities Planning
Mankato State University, Mankato, MN 56002
(507) 389-2226

STATE UNIVERSITY SYSTEM CONTACT:

David Hardin, Coordinator of Facilities Management
Minnesota State University System
555 Park Street, Suite 230, St. Paul, MN 55103
(612) 296-6624

7c) PROJECT—48-89

Campus Center/Food Services Building
University of Minnesota—Waseca

The University of Minnesota is planning to construct a Campus Center/Food Service Building on the Waseca campus. The project will contain a new building, to attach to the present complex, and remodeling of existing food service facilities. Approximately 20,000 GSF will be new construction and approximately 7,000 GSF is remodeled space. The building will face the new campus entrance road and will be an important entry point to the campus facilities. The entry must be inviting, well designed, and relate well to the complex it is a part of. The building is to connect to the present Dining Hall to the east and the Learning Resources Center on the west. The construction budget is approximately \$3,185,000.00.

The following activities are programmed for the building:

- Campus reception area and lounges;
- Dining center, food service preparation, serving, and storage;
- Game room, non-alcoholic bar, and ballroom/meeting room;
- Offices and related storage;
- Lockers and general storage.

The assistance of an experienced food service planning consultant will be required and may be offered as a part of the architect's design team.

Questions concerning this project may be referred to Clinton Hewitt at (612) 625-7355.

Mark Anderson, Chairman
State Designer Selection Board

Governor's Planning Council on Developmental Disabilities

State Planning Agency

Developmental Disabilities Program

Requests for Proposals for Evaluation of Grants and Technical Assistance to Grant Recipients

The Governor's Planning Council on Developmental Disabilities announces that it is seeking proposals from qualified consultants for two projects that are related to eight grants made by the Council. The focus of the grants is "Increased accountability to individuals with developmental disabilities of all ages to increase independence, productivity, and integration into the Community." Consultants are being sought for the following activities:

1. To conduct evaluations of the eight grants to determine the impact achieved by the grant recipients.
2. To provide technical assistance to the eight grant recipients to insure that the recipients are knowledgeable about the techniques of community integration, community building, etc., for persons with developmental disabilities.

Proposals are due in the office of the Council before 4:30 p.m. on Monday, October 30, 1989. Additional information can be obtained by contacting:

Ronald E. Kaliszewski, Grant Administrator
Developmental Disabilities Council
300 Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Phone (612) 296-4018
TTD (612) 296-9962

Department of Health

Request for Proposal for Continuing Education Assistance with Nursing Child Assessment Training (NCAST)

The Minnesota Department of Health is seeking assistance from a Minnesota university or college with a continuing education department in implementing a Nursing Child Assessment Training (NCAST) project. The tasks associated with this support include:

- Preparing course announcements;
- Registering students;
- Maintaining permanent student records;
- Making site arrangements at multiple locations throughout Minnesota;
- Arranging for professional continuing education credit or university course credit; and
- Assistance in the implementation of a one day conference for NCAST trained professionals.

This work will be coordinated with the Department Lead Trainer for NCAST. Assistance will be required on an intermittent basis between December 15, 1989 and June 30, 1990.

Proposal Cost

The Department has estimated that the cost of this assistance should not exceed \$7,500.00.

Proposal Contents

Each proposal should contain the following:

1. Evidence of competence to arrange and implement continuing education sessions for public health nurses and other professionals who provide home based service to infants, including the development of course announcements, arrangement of course sites, registration of students, and permanent maintenance of student records;
2. Evidence of ability to provide approved continuing education or university course credit for the NCAST classes;

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3. Persons to be assigned and their qualifications;
4. Your approach to fulfilling our requirements;
5. Cost of services to be provided.

Worker's Compensation

The successful applicant will be required to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution on the contract.

Proposal Submission

All proposals and inquiries should be directed to:

Cheryl Cyr, Early Childhood & Family Consultant
Community Health Services
Minnesota Department of Health
Box 9441
717 Delaware Street SE
Minneapolis, MN 55440
612/623-5606

Proposals must be received by 4:30 p.m., November 15, 1989. Proposals are to be sealed in a mailing envelope or packaged with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed in ink by a person authorized to enter into a contract for this service. Prices and terms of the proposal as stated must be valid for the length of the project. Final award decisions will be made by November 30, 1989. A formal contract will be executed prior to initiation of the project.

Minnesota Historical Society

Notice of Availability of Contract for Photo Documentation Services

The Minnesota Historical Society is seeking individuals and firms with experience in photographic documentation to submit proposals to document the construction process and completed building for the new Minnesota History Center. This documentation will preserve professional quality negatives and prints for the collections of the Minnesota Historical Society.

These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) October 23, 1989. Late proposals will not be accepted.

Department of Human Services

Health Care Management

Requests for Proposals for a Statewide Media Campaign Promoting Early Prenatal Care

The Minnesota Department of Human Services, working with the Minnesota Health Mothers, Healthy Babies Coalition, is seeking proposals for a vendor to implement a statewide campaign to increase public awareness of the importance of early and continuous prenatal care and to inform the public about public and private funds available for prenatal care. The proposed funding is for \$100,000 for a contract period ending June 30, 1991. The Department is seeking a vendor with demonstrated success in fund raising because there is an expectation that the available funds will be supplemented by additional contribution to support a campaign effort that will, in fact, extend beyond initial contract period.

Submission of Proposals:

All proposals must be sent to and received by:

Kathryn J. Lamp
Health Care Management Division
444 Lafayette Road
St. Paul, Minnesota 55155-3829

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Not later than 4:00 p.m., November 10, 1989. Late proposals will not be accepted. Submit 5 copies of proposals. Proposals must be submitted in a sealed mailing envelope or package with responder's name and address clearly written on the outside, and with evidence of the responder's compliance with the Human Rights Act attached to the envelope or package. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal must be valid for the length of the proposal.

BACKGROUND

Minnesota Statutes 1989, Chapter 282, Article 3, Section 42, states that the "Commissioner of Human Services shall award a grant to an eligible organization to conduct a statewide media campaign promoting early prenatal care." The statute states that the goals of the campaign are 1) to increase public awareness of the importance of early and continuous prenatal care and 2) to inform the public about funding sources, both public and private, that are available to pay for prenatal care.

A public awareness campaign to promote early and continuous prenatal care is one part of the State's commitment to improve birth outcomes for all Minnesotans. Eligibility for public medical programs and services has been expanded, health care provider education has begun and the Health Mothers, Healthy Babies Coalition has gained experience from early efforts to reach pregnant women. A coordinated, focused campaign, that includes Coalition members and local health care providers and agencies, is necessary to reach out to women, especially low income women, with the information that prenatal care is very important, there are places where the care is available and there are sources of payment available also.

PROPOSAL CONTENTS

Minnesota Statutes 1989, Chapter 282, Article 3, Section 42, states that in order to receive a grant under this section, an applicant must:

1. Have experience conducting prenatal care outreach;
2. Have an established statewide constituency or service area; and
3. Demonstrate an ability to accomplish the purposes of the prenatal care awareness campaign described above in the background section.

To assist in making a decision, the Department of Human Services is interested in proposals that contain the following:

1. Evidence that the organization can provide leadership and that the organization has local or regional contacts statewide.
2. Evidence that the organization has been successful with fund-raising efforts in the past and a description in the submitted proposal of how the funds available under this contract would be used to seek additional funds and in-kind contributions from other public and private sources to supplement the purposes of this public awareness campaign.
3. Evidence that the organization can reach successfully across multi-cultural populations, ethnic groups and other special populations like teens.
4. A commitment to designate a percentage of a person's time solely to this project for purposes of coordination and communication with all interested persons, agencies or other organizations.
5. A description of how the responder would develop and implement this public awareness campaign, including the use of electronic and print media, and a description of how the responder will use local projects and agencies to create greater public awareness, distribute materials or other efforts.
6. Written acknowledgement that the responder will work with an advisory group throughout the project.

PROJECT COMPLETION DATE:

The contract will be funded through June, 1991. It is our intent of the Healthy Mothers, Healthy Babies (HM,HB) Coalition membership to seek increased funding to continue this effort beyond 1991.

EVALUATION

All proposals received by the deadline will be evaluated by representatives of the Department of Human Services and a grants review committee from HM,HB. A personal interview may be part of the evaluation process. Proposals will be evaluated based on the following factors: expressed understanding of the project; project work plan, project cost details; past projects that are relevant and qualifications of both the company and personnel.

Evaluation and selection will be completed by November 21, 1989. Results will be sent immediately by mail to all responders.

DEPARTMENT CONTACTS

Prospective responders who have any questions regarding this Request for Proposals may call or write:

Kathryn J. Lamp
Department of Human Services

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444 Lafayette Road
St. Paul, Minnesota 55155-3829
(612) 296-2741

PLEASE NOTE: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

CONDITIONS:

The responder will be required to comply with the following conditions:

1. All costs of the proposal preparation and submittal shall be borne by the agency submitting a response.
2. The Department reserves the right to reject any and or all responses and/or issue another RFP for this proposed contract. The Department further reserves the right to select more than one responder based upon this RFP.
3. All responses become the property of the Department. If a proposal contains any information that the responder does not want disclosed to the public or used for any purpose other than evaluation of its offer, all such information must be indicated with the following statement:

“The information contained on pages . . . shall not be duplicated, used in whole or in part for any purpose other than to evaluate the proposal, provided that if a contract is awarded to this office as a result of or in connection with the submission of such information, the Department of Human Services has the right to duplicate, use or disclose this information to the extent provided in the contract. This restriction does not limit the agency's right to use information contained herein if obtained from another source.”

4. All responders must be aware that:
 - The responder must have Workers Compensation coverage meeting the minimum requirements of Minnesota Law; and
 - All books, records, documents and accounting procedures and practices of the vendor relative to the contract are subject to examination by the Department of Human Services and either the legislative auditor or state auditor as appropriate.

Department of Jobs and Training

Commissioner's Office

Request for Proposals for Statewide Discriminatory Testing Program

The Minnesota Department of Jobs and Training is seeking individuals and firms with experience, to submit proposals for a state wide discriminatory testing program.

These services, which will be provided under contract are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Sylvia E. Anderson, Affirmative Action Officer, 390 North Robert Street, 2nd Floor. St. Paul, MN 55101, (612) 296-9149. The deadline for submitting completed proposal is the end of the business day November 13, 1989. Late proposals will not be accepted.

Department of Transportation

Notice of Availability of a Request for Proposal to Conduct a Study of the Impact of Insurance Availability and Cost on Volunteer Drivers and Transportation Programs

NOTICE IS HEREBY GIVEN that a Request for Proposal is available from the Minnesota Department of Transportation, which seeks the services of a qualified consultant to conduct a study of the impact of insurance availability and cost on volunteer drivers and volunteer transportation programs.

The Department of Transportation estimates that the project will cost no more than \$90,000. Funding will be provided by the State of Minnesota through the Transit Assistance Program. The submission date for completed proposals is November 9, 1989. This Request for Proposal does not obligate the State to complete the project and the State reserves the right to cancel the solicitation if it is construed to be in its best interest.

A copy of the Request for Proposal may be received by contacting Gary E. Erickson, Office of Transit, 815 Transportation Building, St. Paul, Minnesota 55155, telephone (612) 297-3702.

Professional, Technical & Consulting Contracts

Department of Transportation

Notice of Availability of a Request for Proposal to Develop a Statewide Drug Free Transit Program

NOTICE IS HEREBY GIVEN that a request for proposal is available from the Minnesota Department of Transportation (Mn/DOT), which seeks the services of a qualified consultant to develop a statewide drug free transit program. The purpose of this project is to develop an approach to meet the Federally mandated drug control program described in 40 CFR Part 653 and 40 CFR Part 40 published on November 21, 1988. This drug free transit program seeks to develop key tools that will enable public transit systems throughout the state of Minnesota to meet Federal Drug Regulation requirements. Qualified consultant will develop educational materials and develop workshops and on site visits to train transit administrators on how to implement the Federal Drug Policy for their systems.

Mn/DOT declares that Phase I of the project will cost a maximum of \$40,000 and Phase II is anticipated to cost a maximum of \$60,000. Funding will be provided through Section 8 of the Urban Mass Transportation Act. The submission date for completed proposals is November 6, 1989. The request proposal 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.

A copy of the Request for Proposal may be received by contacting Dale E. Maul, Office of Transit, 815 Transportation Building, St. Paul, Minnesota 55155, telephone (612) 296-1610.

Department of Transportation

Notice of Availability of Contract for Photogrammetric Services

Fiscal Year 1990 (July 1, 1989 to June 30, 1990)

The Minnesota Department of Transportation desires a photogrammetric mapping firm or firms to provide the following photogrammetric services conforming to Mn/DOT specifications:

- 1) Analytical Triangulation
- 2) Planimetric Maps
- 3) Topographic Maps
- 4) Profiles and Cross Sections

The State anticipates that the total value of work ordered will not exceed \$200,000.00. The State reserves the option to enter into agreements with more than one firm.

Firms desiring consideration shall express their interest and submit their Federal Forms 254 and 255 to:

Minnesota Department of Transportation
Surveying and Mapping Section
Room 711 Transportation Building
St. Paul, Minnesota 55155

This is not a request for proposal. Expression of interest and forms **must be received** by the Surveying and Mapping section at the above address on or before October 23, 1989 in order to be considered for this work.

Supreme Court Decisions

Decisions Filed 6 October 1989

C2-88-1796 C4-88-1878 L & H Airco, Inc. (formerly L & H Enterprises, Inc.), v. Rapistan Corp., successor by merger to Lear Siegler, Inc., Mammoth Division, et al., and Alan C. Eidsness, et al.; petitioners, Appellants (C4-88-1878) and Robert L. Michaud, petitioner, Appellant (C2-88-1796). Hennepin County.

1. The trial court correctly dismissed an independent action maintained to recover costs and expenses allegedly incurred in obtaining a vacation of an original arbitration award and in resubmitting a matter to a second arbitration.
2. An arbitrator is entitled to immunity from liability for a failure to disclose prior and present social and professional relationships with parties to the proceeding.

3. An attorney owed no duty of care to his client's adversary on which a claim of negligent misrepresentation could be based.
4. An attorney's mere failure to disclose known facts to this client's adversary does not constitute fraud absent a legal duty to disclose those facts to the adversary.

Affirmed in part; reversed in part; certified questions answered. Keith, J.

Dissenting, Yetka, Coyne, and Kelley, J.

Order

C5-87-1684 In Re Petition for Disciplinary Action against David J. Gherity, an Attorney at Law of the State of Minnesota.

Publicly reprimanded. Kelley, J.

Announcements

Environmental Quality Board (EQB): Comments are due on EAWs (environmental assessment worksheets) on November 1 for the following listed projects at their accompanying regional governing unit: **Continental Can Co., Owatonna**, City of Owatonna (507) 451-4540; **Somerset Hills Subdivision**, Olmsted County, (507) 285-8232; **Northwest Airlines Mainbase Modifications**, Metropolitan Airports Commission (612) 726-1892; **Lindbergh Terminal Elevated Roadway Rehabilitation**, Metro Airports Commission (612) 726-1892; **Reiser Property Subdivision**, City of Plymouth, (612) 559-2800. • A petition for environmental review has been received by Washington County for the **Bracht Brothers Gravel Mine, New Scandia Twp.** • A public meeting to receive comments on the assessment of environmental effects of the seven year capital improvement plans will be held Oct. 17 at 7 p.m. at the Metropolitan Airports Commission, 6040-28th Avenue South, Minneapolis (612) 726-1892 for: **MSP International Airport, St. Paul Downtown Airport—Holman Field, Flying Cloud Airport and Airlake Airport.** • A public hearing on the matter of the **Yellow Medicine River Watershed District** Permit Application for Ditches 13 and 15 will be held on Tuesday 17 October at 10 a.m. in the Senior Citizen Hall, Taunton, Minnesota (612) 296-0689. For more information on any of the above, contact **EQB Monitor** editor Gregg Downing (612) 296-8253.

DNR News: **Eighteen buffalo will be auctioned** off Wednesday 18 Oct at Blue Mounds State Park, northeast of Luverne on Hwy 75, one mile east on County Rd 20. The animals, seven 6-month-old calves, two 18-month-old bulls, two 18-month-old heifers, two 30-month-old heifers, three 30-month-old bulls, and two mature cows 9-years-old, may be viewed from 8 a.m. to 1 p.m. on the day of the sale. The auction will begin at 1 p.m. Contact Merlin Johnson (507) 283-4892. • Beginning with the **1990 spring wild turkey hunt**, applicants who are unsuccessful in the general computer drawing for a wild turkey license will gain preference in future general computer drawings over those applicants who were previously successful. The new preference system, which is similar to the bear preference system, is being implemented as a result of statute change made during the last legislative session. Call Tom Keefe for information (612) 296-3344. • The inventories of jack pine, Colorado spruce, white spruce, red oak, and the assorted oak packet are already exhausted in the northern zone for planting in the spring of 1990. **Orders for tree planing stock** to be shipped the spring of 1990 will be accepted by the DNR forestry division until March 20, 1990, or until supplies are exhausted. Call Meg Hanisch (612) 296-5958 for more information. • A **Management Plan for Forestry Operations** in the northeastern region of Minnesota is being prepared by the Minnesota Dept. of Natural Resources. Issues that are important to the future of forestry will be addressed in the plan, which will take several years to complete. An extensive public review and comment period will be announced when a draft of the plan is available. Call Forestry Planner Tom Polasik (612) 297-2213 for more information.

Governor's Appointments: Governor Rudy Perpich has appointed Jackson County Attorney Linda S. Titus to a judgeship in the Fifth Judicial District. Titus, who will be the first woman ever appointed to a judgeship in the Fifth District, will have her chambers in Jackson, where she resides. She replaces Judge Harvey Holtan, who will retire Feb. 28, 1990, and has been seated in Cottonwood County in Windom. The Minnesota Supreme Court recently certified that district court judgeship back to the Fifth Judicial District and transferred its chambers to Jackson.

"The check's in the mail": Minnesota homeowners who filed for a property tax refund can expect a check soon from the Minnesota Department of Revenue. The department is mailing out property tax refund checks to 229,000 homeowners who have filed their 1988 returns. The average refund will be \$177 for homeowners, compared with \$216 last year when 162,000 homeowners received refunds. To qualify for a 1988 property tax refund, an applicant must have been a Minnesota resident for all or part of 1988 with an annual household income of \$35,000 or less. Homeowners must have owned and lived in their homes on Jan. 2, 1989, according to the department. The lower average refund this year reflects the large number of applicants who have qualified for a new special property tax refund this year. The special refund is for homeowners whose property tax increased by more than 10 percent from 1988 to 1989 and whose taxes have increased by at least \$40.

Announcements

Metropolitan Council Appointments: The Metropolitan Council Thursday appointed 10 people to its **Developmental Disabilities Advisory Committee**. Named to the committee were: Laura J. Weber and Barbara J. Schultz, St. Paul; Gerald M. Glomb and William R. Zuber III, Roseville; Sue D. Swenson, Minneapolis; Gary W. Ellis, Shoreview; David W. Hancox, Golden Valley; Michelle R. Veith, Eden Prairie; Paula L. Reeves, Lakeville; and Linda A. Rother, Eagan. The terms of the 10 appointees expire on Oct. 1, 1992. • The council appointed Thomas Dwight of Mahtomedi to represent District B on the **Metropolitan Parks and Open Space Commission**. District B includes all of suburban Ramsey County, Washington County north of Highway 36, and the communities of Lino Lakes and Centerville in Anoka County. His term with the commission expires on Jan. 1, 1991. • Also appointed were three members to its **Land Use Advisory Committee**. The new members are Stephen J. Bubul, St. Paul, representing District 2; Jude Okney, Minneapolis, representing District 5; and Linda J. Thorsvik, Coon Rapids, representing District 8. Bubul, a citizen, and Thorsvik, a member of the Coon Rapids City Council, will be on the committee until Jan. 1, 1991. The term of Okney, also a citizen representative, runs until Jan. 1, 1993.



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Malfred Ferndock's Morel Cookbook, brim full of morel lore, interesting and tall tales, recounts of the hunt, and many savory recipes. Spiral bound, 117 pgs., black & white photos and drawings. Code #19-83, \$8.50.

Northland Wildflowers, the perfect mushroomers companion. An excellent guide for identification and enjoyment of wildflowers, with 308 color photographs and descriptions of 300 species. Paperbound. 236 pp. Code #19-9, \$12.95.

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Chemical Dependency Programs Directory 1989. Features comprehensive listings for programs ranging from Prevention/Intervention Services to a wide range of Treatment Services. Each type of program includes an alphabetical listing of facilities and brief narrative description of programming provided. Stock No. 1-12, \$15.00 plus tax.

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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.

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.

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, \$8.95 plus tax. See "Special Set Offer" below.

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Minnesota Manufacturer's Directory, 1989. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchasing managers, and four manufactured products. Stock #40-2. \$76.50 + \$4.59 sales tax.

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