

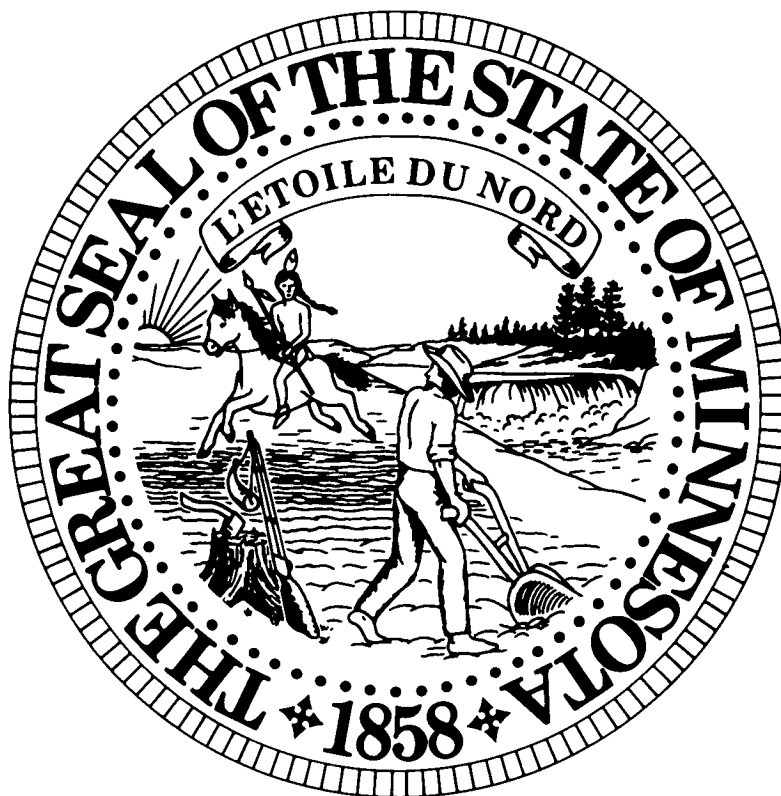
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State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

13 November 1989
Volume 14, Number 20
Pages 1155-1194

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
20	Monday 30 October	Monday 6 November	Monday 13 November
21	Monday 6 November	Monday 13 November	Monday 20 November
22	Monday 13 November	Monday 20 November	Monday 27 November
23	Monday 20 November	Monday 27 November	Monday 4 December

*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

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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 14-20 inclusive (issues #1-13 appeared in #13) . . . 1158

Proposed Rules

Animal Health Board

Sale of swine 1159

Health Department

Hearing instrument dispenser registration 1160

Unlicensed Mental Health Service Providers Board

Unlicensed mental health service providers 1170

Errata

Health Department

Correction to proposed rules on fees for
manufactured home parks and recreational
camping areas 1176

Adopted Rules

Labor & Industry Department

OSHA update 1177

Emergency Rules

Veterans Affairs Department

Veterans homes admissions, discharges, cost of care
calculations, and maintenance charges 1178

Official Notices

Animal Health Board

Meeting notice 1180

Arts Board

Board meeting 1180

Medical Examiners Board

Opinion sought on rules for licensing and
examinations 1180

Public Safety Department

Opinion sought on rules for license revocation for
alcohol and controlled substance related incidents . . . 1181

Opinion sought on rule for non-alcohol-related
driver's license withdrawal, commercial driver
disqualification, and license reinstatement 1190

Regional Transit Board

Hearing on metro mobility 1181

Job Skills Partnership Board

Annual meeting board 1182

Transportation Department

Amended order and notice of street and highway
routes designated and permitted to carry the gross
weights allowed 1182

Water and Soil Resources Board

Meeting 1182

Outside information or opinions sought regarding
proposed rule governing local water resources
protection and management program 1182

State Contracts and Advertised Bids

Administration Department

Materials Management Division: Commodities and
requisitions open for bid 1183

Print Communications Division: Printing,
typesetting, design and mailing services open
for bid 1184

Professional, Technical & Consulting Contracts

Corrections Department

Proposals sought for providing bid proposal
information 1185

Health Department

Proposals sought for ad placements of Acquired
Immunodeficiency Syndrome (AIDS) and other
Sexually Transmitted Diseases (STDs) risk
reduction messages 1186

Applications sought for preventing and controlling
the complications of diabetes through quality
assurance programs 1186

Natural Resources Department

Request for proposals for consultant to explore future
directions for the Minnesota DNR in geographic
resource information systems 1187

Public Defense Board

State public defender position available 1188
Administrative fiscal director position available 1188

Transportation Department

Request for proposals for inter-city bus service
design, marketing, operation, and evaluation
(Morris, MN to Minneapolis Corridor) 1188

Supreme Court Decisions

Decisions, opinions and orders filed Thursday 9
November 1989 1188

Announcements 1189

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 14-20 (Issues 1-13 in #13)

Rural Finance Authority

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

Animal Health Board

1715.0385; .0550 (proposed)	1159
-----------------------------------	------

Commerce Department

2660.0010-.0110 (proposed)	1123
2751.0100-.1200 (proposed)	942
2751.1300 (proposed amendments)	947

Trade & Economic Development Department

4300.0100; .0200; .1100; .1101; .1200; .1400 (adopted)	1098
4300.0100 s. 16, 24 (repealed)	1098

Health Department

4620.1900-.2500 (proposed emergency)	1133
4630.1900; .2000; .2210 (proposed)	1091 and 1176
4630.2000 (withdrawn)	1091
4670.0100; .0600; .0610; .1600; .1980; .2300 (adopted)	1008
4670.0620 (repealed)	1008
4670.1320; .4200; .4210; .4220; .4230; .4240 (proposed)	1037
4670.3400; .3410; .3420; .3430; .3440; .3450; .3460 (proposed repealer)	1037
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
4692.0010-.0045 (adopted)	1132
4705.1600 (adopted)	1067
4745.0010-.0060 (proposed)	1160

Labor & Industry Department

5210.0010 (adopted)	1177
---------------------------	------

Higher Education Coordinating Board

4830.7000-.7900 (adopted emergency)	1138
---	------

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 Safety Department

7513.0100; .0200 (adopted)	1132
7520.0100; .0200; .0350; .0680 (adopted)	1008
7520.0650; .1000; .1100 (proposed)	1053
7520.0680 (repealed)	1008

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

Minnesota Racing Commission

7869.0100; .7873.0110; .0120; .0140; .0150; .0190; .0191; .0300; .7876.0110; .7877.0120; .0170; .0175; .0185; .7878.0120; .7883.0130; .0140; .0150; .7890.0140; .7892.0120; .7895.0100; .0125; .0250; .0275; .0300; .0350; .7897.0150; .0160; .0170 (proposed)	1057
--	------

Unlicensed Mental Health Service Providers Board

9000.0050-.0190 (proposed)	1170
----------------------------------	------

Veterans Department

9050.0010-.0900 (proposed)	948 and 1096
9050.0010-.0900 (adopted emergency)	1178

Human Services Department

9500.1100 (proposed)	1005
9500.1272 (proposed)	892
9500.2060; .2100; .2140; .2340; .2380; .2420; .2440; .2500;	

.2580; .2640; .2680; .2700; .2740; .2800; .2820;	.0720 (adopted)	1008
.2880 (withdrawn)	9575.0350; .1500 (proposed)	1042
9500.2060 s.118 (proposed repealer withdrawn)	9575.0090 s.2, 3 (repealed)	1008
9575.0010; .0020; .0090; .0380; .0530; .0620;		

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

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

Board of Animal Health

Proposed Permanent Rules Relating to Sale of Swine

Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HERBY GIVEN that the State Board of Animal Health proposes to adopt the above entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* section 14.21 through 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules and such comments are encouraged. Any person requesting a public hearing should state his or her name and address and each comment should identify the portion of the rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if modifications are supported by data and views submitted to the agency and do not result in substantial change in the proposed language.

Unless 25 or more persons submit a written request for a public hearing on the proposed rule within the 30 days comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of *Minnesota Statutes* section 14.13 through 14.20.

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

Robert G. Pyle
State Board of Animal Health
90 West Plato Blvd.
160 Agriculture Building
St. Paul, MN 55107
Telephone: (612) 296-2941

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

Authority for adoption of these rules is contained in *Minnesota Statutes* section 35.03 (1982). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information supporting the proposed rules has been prepared and is available from Robert G. Pyle upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted should submit a written statement of such request to Robert G. Pyle.

The rules proposed for adoption relate to the following matters: The Sale of Livestock in Minnesota.

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

Dated: 25 October 1989

T. J. Hagerty, DVM
Executive Secretary
Board of Animal Health

Rules as Proposed

1715.0385 PSEUDORABIES QUARANTINED FEEDER PIGS.

Feeder pigs from pseudorabies quarantined herds in Minnesota may be sold in accordance with part 1715.0550, subpart 5.

1715.0550 SALE OF SWINE.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. Sale of lightweight market hogs. Market hogs consigned that are not sold to go directly to slaughter because of insufficient weight may be sold for feeding purposes to an approved premises in compliance with part 1705.2434.

Subp. 5. Sale of feeder pigs from herds under quarantine for pseudorabies. Feeder pigs from pseudorabies quarantined herds may be sold at a pseudorabies restricted feeder pig market approved as a quarantined feeder pig market as provided in items A to E.

A. No livestock other than quarantined feeder pigs may be sold at the market.

B. The quarantined feeder pigs may not be unloaded from incoming vehicles before sale.

C. The feeder pigs must be accompanied by an owner's notice of shipment or shipping permit consigning them to the sale.

D. Following sale, the feeder pigs must be transported directly to an approved premises authorized in part 1705.2434.

E. An owner's notice of shipment must be issued for feeder pigs to move from the pseudorabies-restricted feeder pig market to an approved premises.

Subp. 6. Stage III areas. Pseudorabies-restricted feeder pig markets under this part may not be established or authorized in the northern zone as defined in part 1705.2472 or in an area that is in stage III of the state-federal-industry program standards.

Department of Health

Proposed Permanent Rules Relating to Hearing Instrument Dispenser Registration

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

Explanation of Alternative Notices

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* sections 14.22 to 14.28 (1988). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1988). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on December 13, 1989, there will be five days before the scheduled hearing date. This five-day period will give interested persons ample time to contact the Department to find out whether the hearing will be cancelled and to plan accordingly.

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* sections 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on December 13, 1989. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. 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 in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Department be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by December 13, 1989. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Jean M. Klosowski
Rule Development Specialist
Health Systems Development Division
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, Minnesota 55440
Telephone: (612) 623-5751

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes* section 214.13.

If adopted, the proposed rules will: 1) establish a central registry of persons who are registered with the Department and are thereby entitled to use titles protected by the proposed rules, for example, hearing instrument dispenser; 2) designate titles to be protected by the proposed registration rules; 3) establish the minimum entry requirements for registration as a hearing instrument dispenser; 4) establish hearing instrument dispenser registration and registration renewal procedures; 5) establish hearing instrument dispenser continuing education requirements and procedures; 6) govern the criteria to be applied and the procedure to be followed by the Department in granting, renewing, suspending, revoking and/or imposing conditions, limits, or restrictions on a person's registration; 7) establish a schedule governing the renewal of registration; 8) establish an advisory council to advise the Commissioner of Health on matters relating to the registration and regulation of hearing instrument dispensers; and 9) establish an annual registration fee and a surcharge fee to be applied to registration applicants for a period of five years following the effective date of the proposed rules. The proposed rules will be published in the *State Register* issue of November 13, 1989 and a free copy of the rules may be obtained from the Department by writing or telephoning Jean M. Klosowski at the address or telephone number listed above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Department by writing or telephoning Jean M. Klosowski at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* section 14.11 (1988).

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes* section 14.115 (1988) regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the

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Proposed Rules

methods contained in *Minnesota Statutes* section 14.115, subd. 2 (1988) for reducing the impact of the proposed rules if they are subject to section 14.115, are addressed in the statement of need and reasonableness.

If no hearing is required, upon adoption of the rules, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Jean M. Klosowski at the address listed above.

Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing

Please Note That If 25 Or More Persons Submit Written Requests For A Public Hearing With Respect To The Above-Captioned Rules Within The 30-Day Comment Period Pursuant To The Notice Given In Part II Above, A Hearing Will Be Held On December 13, 1989, In Accordance With The Following Notice Of Public Hearing.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* section 14.131 to 14.20 (1988), in the Veteran's Conference Room D, on the 5th floor of the Veteran's Service Building, 20 West 12th Street, St. Paul, Minnesota 55155, on December 18, 1989, commencing at 9:30 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Jr., Administrative Law Judge, Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* sections 14.131 to 14.20 (1988) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1987). Questions about procedure may be directed to the administrative law judge.

If adopted, the proposed rules will: 1) establish a central registry of persons who are registered with the Department and are thereby entitled to use titles protected by the proposed rules, for example, hearing instrument dispenser; 2) designate titles to be protected by the proposed registration rules; 3) establish the minimum entry requirements for registration as a hearing instrument dispenser; 4) establish hearing instrument dispenser registration and registration renewal procedures; 5) establish hearing instrument dispenser continuing education requirements and procedures; 6) govern the criteria to be applied and the procedures to be followed by the Department in granting, renewing, suspending, revoking and/or imposing conditions, limits, or restrictions on a person's registration; 7) establish a schedule governing the renewal of registration; 8) establish an advisory council to advise the Commissioner of Health on matters relating to the registration and regulation of hearing instrument dispensers; and 9) establish an annual registration fee and a surcharge fee to be applied to registration applicants for a period of five years following the effective date of the proposed rules. The proposed rules will be published in the State Register issue of November 13, 1989, and a free copy of the rules may be obtained from the Department by writing or telephoning Jean M. Klosowski at the address or telephone number listed above.

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes* section 214.13.

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

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

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

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

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* section 14.11 (1988).

It is the position of the Department that these proposed rules are not subject to *Minnesota Statutes* section 14.115 (1988) regarding small business considerations in rulemaking. The basis for this position and the Department's evaluation of the applicability of the methods contained in *Minnesota Statutes* section 14.115, subd. 2 (1988) for reducing the impact of the proposed rules should it be determined that the proposed rules are subject to section 14.115, are addressed in the statement of need and reasonableness.

Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing

Please Note That The Hearing, Notice Of Which Is Given In Part III Above, Will Be Cancelled If Fewer Than 25 Persons Request A Hearing In Response To The Notice Given In Part II Above.

To be informed whether the hearing in Part III above will be held, please telephone Jean M. Klosowski at the telephone number listed above in Part II of this notice before December 18, 1989, and leave your name, address, and telephone number. You will be notified if the hearing has been cancelled. You may also telephone Jean M. Klosowski after December 13, 1989, for oral confirmation, regarding the scheduled hearing.

Dated: 24 October 1989

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

4745.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 4745.0010 to 4745.0060, the following terms have the meanings given them.

Subp. 2. **Active practice.** "Active practice" means engaged in hearing instrument selling for a minimum of 750 hours a year for three of the last five years.

Subp. 3. **Advisory council.** "Advisory council" means the Minnesota Hearing Instrument Dispenser Advisory Council established under *Minnesota Statutes*, section 214.13, subdivision 4.

Subp. 4. **Applicant.** "Applicant" means a person who applies to the commissioner for registration or registration renewal.

Subp. 5. **Approved continuing education sponsor.** "Approved continuing education sponsor" means an organization that offers a learning experience designed to promote continuing competency in the procedures and techniques of hearing instrument selling as defined in subpart 13 and that meets the criteria in part 4745.0045, subpart 3.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or a designee.

Subp. 7. **Contact hour.** "Contact hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals with or without a speaker, and social activities.

Subp. 8. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in hearing instrument selling issued by any authority.

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

Proposed Rules

Subp. 9. **Credentialing.** "Credentialing" means the process or system for issuing a credential or otherwise issuing evidence of qualification or authorization to engage in hearing instrument selling.

Subp. 10. **Hearing instrument.** "Hearing instrument" is as defined in *Minnesota Statutes*, section 153A.13, subdivision 3.

Subp. 11. **Hearing instrument dispenser.** "Hearing instrument dispenser" means a hearing instrument seller as defined in subpart 12, who meets the qualifications required by parts 4745.0010 to 4745.0060, and registers with the commissioner. As used in parts 4745.0010 to 4745.0060, the term hearing instrument dispenser also refers to a natural person using the title consultant, dispenser, or specialist in conjunction with either hearing instrument or hearing aid.

Subp. 12. **Hearing instrument seller.** "Hearing instrument seller" means a natural person who engages in hearing instrument selling as defined in subpart 13, but who is not registered under parts 4745.0010 to 4745.0060.

Subp. 13. **Hearing instrument selling.** "Hearing instrument selling" is as defined in *Minnesota Statutes*, section 153A.13, subdivision 4.

Subp. 14. **Hearing instrument user.** "Hearing instrument user" means a person who wears or uses a hearing instrument as defined in subpart 10 to aid defective hearing.

Subp. 15. **Individual.** "Individual" means any person over whom the commissioner has jurisdiction under parts 4745.0010 to 4745.0060. Individual includes an applicant, a registrant, or a person who uses any title protected by part 4745.0020, whether or not authorized to do so by parts 4745.0010 to 4745.0060.

Subp. 16. **Register or registered.** "Register" or "registered" means the act or status of a natural person meeting the requirements of parts 4745.0010 to 4745.0060 and authorized by the commissioner to use the titles in part 4745.0020.

Subp. 17. **Registrant.** "Registrant" means a person who meets the requirements of parts 4745.0010 to 4745.0060 and is authorized by the commissioner to use the titles in part 4745.0020.

Subp. 18. **Registration.** "Registration" is the system of regulation defined in *Minnesota Statutes*, section 214.001, subdivision 3, paragraph (c), and is the process specified in parts 4745.0010 to 4745.0060.

4745.0020 PROTECTED TITLES AND RESTRICTIONS ON USE.

Subpart 1. Protected titles.

A. Use of any of the following titles by any person is prohibited unless that person is registered under parts 4745.0010 to 4745.0060.

- (1) Hearing Instrument Dispenser;
- (2) Hearing Instrument Specialist;
- (3) Hearing Instrument Consultant;
- (4) Hearing Aid Dispenser;
- (5) Hearing Aid Specialist; and
- (6) Hearing Aid Consultant.

B. The term "Minnesota Registered" may be used in conjunction with any of the titles listed in item A. by any person registered under parts 4745.0010 to 4745.0060.

C. When engaged in hearing instrument selling, a registered hearing instrument dispenser must be identified as such by wearing a name tag bearing the dispenser's name and one of the titles in item A.

Subp. 2. **Restrictions on use of protected titles.** Notwithstanding subpart 1, item A, no person will be prevented or restricted from using an official employment title if employed by the federal government; however, use of the official title, under those circumstances, is allowed only in connection with performance of official duties for the federal government.

4745.0025 REGISTRATION REQUIREMENTS.

Subpart 1. General requirements. An applicant must:

- A. be 18 years of age or older;
- B. submit an application as required in part 4745.0035, subpart 1;
- C. submit certification to the commissioner that the applicant's audiometric equipment has been calibrated within 12 months of the date of the application; and
- D. submit all fees required under part 4745.0050.

Subp. 2. **Registration by examination.** Except as provided in part 4745.0030, an applicant must achieve a passing score, as determined by the commissioner, on an examination according to items A to C.

A. The examination must include but not be limited to:

(1) A written examination approved by the commissioner covering the following areas as they pertain to hearing instrument selling:

- (a) basic physics of sound;
- (b) the anatomy and physiology of the ear;
- (c) the function of hearing instruments; and
- (d) laws, rules, and regulations of Minnesota and the federal government.

(2) Practical tests of proficiency in the following techniques as they pertain to hearing instrument selling:

- (a) pure tone audiometry, including air conduction testing and bone conduction testing;
- (b) live voice or recorded voice speech audiometry including speech reception threshold testing and most comfortable loudness measurements of tolerance thresholds;
- (c) masking when indicated;
- (d) recording and evaluation of audiograms and speech audiometry to determine proper selection and adaption of a hearing instrument;
- (e) taking ear mold impressions; and
- (f) using an otoscope or an equivalent illuminator for the visual observation of the entire ear canal.

B. The examination shall be administered by the commissioner at least twice a year.

C. Applicants must submit the application and examination fee required under part 4745.0050, subpart 4, to the commissioner at least 60 days before the date set for the examination.

Subp. 3. **Registration by reciprocity.** An applicant may be registered as a hearing instrument dispenser by reciprocity, according to items A and B.

A. Whenever the commissioner determines that an applicant holds a current and unrestricted credential for hearing instrument selling in another jurisdiction that has requirements equivalent to or higher than those in effect for determining whether applicants in this state are qualified to be registered as hearing instrument dispensers, the commissioner may register the applicant without the applicant meeting the requirements of subpart 2, provided that the applicant otherwise meets all other requirements of parts 4745.0010 to 4745.0060.

B. An applicant for registration by reciprocity under item A, must have the appropriate government body in each jurisdiction in which the applicant holds a credential submit letters of verification to the commissioner. Each letter must state the applicant's name, social security number, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and whether the credential was issued by examination.

Subp. 4. **Registration following lapse of registered status of two years or less.** For any applicant whose registered status has lapsed for two years or less, the applicant must:

- A. apply for registration according to part 4745.0040 subparts 1 and 2;
- B. document compliance with continuing education requirements since the applicant's registration lapsed; and
- C. pay the current renewal fee.

Subp. 5. **Registration following lapse of registered status of more than two years.** For any applicant whose registered status has lapsed for more than two years, the applicant must:

- A. fulfill the requirements for registration in subparts 1 and 2; or
- B. fulfill the requirements of subpart 3.

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Proposed Rules

4745.0030 TEMPORARY REGISTRATION REQUIREMENTS.

Subpart 1. **Temporary registration requirements.** An applicant for registration need not comply with the requirements of part 4745.0025, subpart 2, for two years after the effective date of parts 4745.0010 to 4745.0060 if, at the time of application, the applicant provides the commissioner with evidence that the applicant has engaged in active practice.

Subp. 2. **Examination requirement.** After the time for temporary registration has expired, all applicants must meet the requirements of part 4745.0025, subpart 2.

Subp. 3. **Notification of applicants.** The commissioner shall notify applicants for registration of the effective date of parts 4745.0010 to 4745.0060 and the date on which registration by examination is required.

4745.0035 REGISTRATION PROCEDURES.

Subpart 1. **Applications for registration.** All applicants for registration must:

A. submit a completed application for registration on forms provided by the commissioner. The application must include the applicant's name, social security number, business address and phone number, or home address and phone number if the applicant conducts hearing instrument selling out of the home, and a description of the applicant's education, training, and experience, including previous work history. The commissioner may ask the applicant to provide additional information necessary to clarify information submitted in the application;

B. sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

C. submit with the application all fees required by part 4745.0050;

D. sign a waiver authorizing the commissioner to obtain access to the applicant's records in this state or any other state in which the applicant has engaged in hearing instrument selling;

E. provide evidence of a passing score as determined by the commissioner on an approved examination as described in part 4745.0025; and

F. provide certification to the commissioner that the applicant's audiometric equipment has been calibrated within 12 months of the date of the application.

Subp. 2. **Action on applications for registration.** The commissioner shall act on an application for registration according to items A to C.

A. The commissioner shall determine if the applicant meets the requirements for registration. The commissioner or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

B. The commissioner, within 60 days of receiving an application for registration, shall notify each applicant of action taken on the application and of the grounds for denying registration if registration is denied.

C. Applicants denied registration may make a written request to the commissioner, within 30 days of the commissioner's determination, to appear before the advisory council and for the advisory council to review the commissioner's decision to deny the applicant's registration. After reviewing the denial, the advisory council shall make a recommendation to the commissioner. Each applicant is allowed no more than one request for a review of denial of registration in any one registration renewal period.

4745.0040 REGISTRATION RENEWAL.

Subpart 1. **Renewal requirements.** To renew registration, an applicant must:

A. annually complete a renewal application on a form provided by the commissioner and submit the annual renewal fee;

B. meet the continuing education requirements of part 4745.0045; and

C. submit certification to the commissioner that the applicant's audiometric equipment has been calibrated within 12 months of the date of the application.

Subp. 2. **Other requirements.**

A. An applicant must submit additional information if requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days of the commissioner's request.

B. An application submitted after the renewal deadline date must be accompanied by a late fee as required in part 4745.0050, subpart 3.

Subp. 3. **Registration renewal notice.** Registration renewal is on an annual basis. At least 30 days before the registration renewal date in subpart 4, the commissioner shall send out a renewal notice to the registrant's last known address. The notice shall include a

renewal application and notice of fees required for renewal. If the registrant does not receive the renewal notice, the registrant is still required to meet the deadline for renewal to qualify for continuous registered status.

Subp. 4. **Renewal deadline.** The renewal application and fee must be postmarked on or before the date registration must be renewed according to items A to E. Registration must be renewed according to the following schedule:

- A. for registrants whose last name begins with the letters A to E, February 1;
- B. for registrants whose last name begins with the letters F to L, April 1;
- C. for registrants whose last name begins with the letters M to P, June 1;
- D. for registrants whose last name begins with the letters Q to U, August 1; and
- E. for registrants whose last name begins with the letters V to Z, October 1.

4745.0045 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. Number of contact hours required.

A. An applicant for registration renewal must provide evidence to the commissioner of a minimum of 20 contact hours of continuing education offered by an approved continuing education sponsor within the two years preceding registration renewal.

B. Contact hours cannot be accumulated in advance and transferred to a future continuing education period.

Subp. 2. **Preapproved continuing education sponsors.** The commissioner will accept continuing education approved or sponsored by the Minnesota Department of Health, the Minnesota Hearing Aid Society, the National Hearing Aid Society, the National Institute of Hearing Instrument Studies, the Minnesota Speech-Language-Hearing Association, the American Speech-Language-Hearing Association, or the Academy of Dispensing Audiologists.

Subp. 3. **Approval of continuing education sponsors.** All continuing education sponsors must be approved by the commissioner according to items A to E.

A. Applications for approval must be submitted to the commissioner at least 90 days before the date of the first continuing education activity. Applications must be made in writing by the person or officer of the organization sponsoring the program. To obtain approval, continuing education sponsors must submit the following information on an application provided by the commissioner:

(1) The continuing education sponsor must describe the content of all courses to be offered. The course content must contribute directly to the professional competency of the hearing instrument dispenser, must be related to the use of hearing instruments for aiding or compensating the hearing impaired, and must include subject matter related to current developments in hearing instrument selling.

(2) The continuing education sponsor must describe the method of instruction for each course offered. The continuing education sponsor must describe for each course offered the teaching methods to be used, such as, lecture, seminar, audiovisual, or simulation.

(3) The continuing education sponsor must outline specific, written objectives that describe expected outcomes for the participants.

(4) The continuing education sponsor must state the number of contact hours of continuing education which may be obtained by completing a specified course, which must be a minimum of one hour.

(5) The continuing education sponsor must provide a resume of each instructor's qualifications with the application for approval by the commissioner. Instructors shall be qualified to teach the specified course content based on their prior education, training, or experience.

B. Sponsors of sales training courses and new product seminars offered for continuing education purposes are subject to approval as continuing education sponsors by the commissioner.

C. The continuing education sponsor must report to the commissioner, on a timely basis, any change in the course content or instructor.

D. Continuing education sponsors must maintain, for a minimum of three years, a record of attendance for each course offered.

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Proposed Rules

E. The commissioner may withdraw the approval of any continuing education sponsor for failure to comply with this part.

Subp. 4. **Earning continuing education contact hours through contact hour equivalents.** An applicant who teaches continuing education courses may obtain contact hour equivalents according to items A to C.

A. The sponsor of the course must be approved by the commissioner.

B. An applicant may not obtain more than four contact hours in any one renewal period by teaching continuing education courses.

C. An applicant may obtain two contact hours for each hour spent teaching a course if the course is sponsored by an approved continuing education sponsor. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period.

Subp. 5. **Evidence of attendance.** Each applicant is responsible for maintaining records of attending continuing education. Applicants must provide written evidence of attending the required contact hours for registration renewal. The evidence must be submitted with the renewal application on a form provided by the commissioner. The form must include the sponsoring organization, location and dates of the course, course name, course instructor, contact hours completed, and name and signature of the applicant.

Subp. 6. **Verification of continuing education reports.** The commissioner may request a registrant to verify the continuing education to which the registrant attested. Documentation may come directly from the registrant or from a national accrediting or certifying organization that maintains the records.

4745.0050 FEES.

Subpart 1. **First time registrants and applicants for registration renewal.** The commissioner shall prorate the registration fee for first time registrants and applicants for registration renewal according to the number of months that have elapsed between the date registration is issued and the date registration must be renewed according to part 4745.0040, subpart 4.

Subp. 2. **Annual registration fee.** The fee for initial registration and annual registration renewal is \$93.

Subp. 3. **Penalty fee for late renewals.** The penalty fee for late submission of a renewal application is \$15.

Subp. 4. **Examination fee.** The fee for taking the written and practical examination required by part 4745.0025 is \$50.

Subp. 5. **Surcharge.** In addition to the other applicable fees, each applicant must pay a surcharge fee of \$35. The surcharge fee applies to all registrants during the first five years following the effective date of parts 4745.0010 to 4745.0060.

Subp. 6. **Nonrefundable fees.** All fees are nonrefundable.

4745.0055 INVESTIGATION PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

Subpart 1. **Investigations of complaints.** The commissioner or advisory council may initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that an individual has violated parts 4745.0010 to 4745.0060. The investigation may proceed on an oral complaint but disciplinary action may only proceed on a signed complaint. The advisory council may recommend whether the commissioner should take disciplinary action against an individual. According to *Minnesota Statutes*, section 214.13, subdivision 6, in the receipt, investigation, and hearing of a complaint that alleges or implies an individual has violated parts 4745.0010 to 4745.0060, the commissioner shall follow the procedures in *Minnesota Statutes*, section 214.10.

Subp. 2. **Rights of individuals.** Individuals subject to discipline under parts 4745.0010 to 4745.0060 may, within 30 days of the commissioner's decision, request in writing to appear before the advisory council and for the advisory council to review the commissioner's decision. The advisory council shall recommend to the commissioner whether a hearing should be conducted according to *Minnesota Statutes*, chapter 14. Each individual is allowed no more than one request for review by the advisory council of the commissioner's decision regarding any one complaint.

Subp. 3. **Grounds for disciplinary action by the commissioner.** The commissioner may take any of the disciplinary actions listed in subpart 4 upon proof that the individual has:

A. submitted false or misleading information to the commissioner to obtain or renew registration or for any other purpose;

B. failed, within 30 days, to provide information in response to a written request by the commissioner or advisory council;

C. performed services of a hearing instrument dispenser in an incompetent or negligent manner;

D. violated parts 4745.0010 to 4745.0060;

E. been unable to perform services with reasonable judgment, skill, and safety due to the use of alcohol or drugs, or other causes;

F. been convicted within the last five years of violating any laws of the United States, or any state or territory of the United

States, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which is related to hearing instrument selling;

G. aided or abetted another person in violating any of the provisions of parts 4745.0010 to 4745.0060;

H. been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those in parts 4745.0010 to 4745.0060;

I. not cooperated with the commissioner or advisory council in an investigation conducted according to subpart 1; or

J. engaged in any of the acts prohibited by *Minnesota Statutes*, section 153A.15, subdivision 1.

Subp. 4. **Disciplinary actions.** If the commissioner finds that an individual should be disciplined according to subpart 3, the commissioner may take any one or more of the following actions:

A. refuse to grant or renew registration;

B. suspend registration for a period not exceeding one year;

C. revoke registration for a period not exceeding three years;

D. administer a reprimand;

E. impose conditions, limits, or restrictions on the hearing instrument dispenser's registration; or

F. take any reasonable action against an individual upon proof that the individual has violated parts 4745.0010 to 4745.0060.

Subp. 5. **Consequences of disciplinary action.** Upon the suspension or revocation of registration, the hearing instrument seller shall cease to use titles protected by parts 4745.0010 to 4745.0060 and shall cease to represent to the public that the hearing instrument seller is registered by the commissioner.

Subp. 6. **Reinstatement requirements after disciplinary action.** A hearing instrument seller who has had registration suspended or revoked may apply for reinstatement or registration renewal following the period of suspension or revocation specified by the commissioner. All requirements of part 4745.0040 for renewing registration must be met before registration may be reinstated or renewed.

4745.0060 HEARING INSTRUMENT DISPENSER ADVISORY COUNCIL.

Subpart 1. **Membership.** The commissioner shall appoint seven persons to a hearing instrument dispenser advisory council.

A. The seven persons must include:

(1) two public members, as defined in *Minnesota Statutes*, section 214.02. One of the public members shall be a hearing instrument user and one of the public members shall be either a hearing instrument user or an advocate of such a person; and

(2) four hearing instrument dispensers registered under parts 4745.0010 to 4745.0060, each of whom is currently and has been for the five years immediately preceding their appointment engaged in hearing instrument selling in Minnesota; at least three must be registered hearing instrument dispensers who are not audiologists and one must be a registered hearing instrument dispenser who is an audiologist; and

(3) one of the following:

(a) a licensed physician specializing in treatment of diseases of the ear, who is certified by the American Board of Otolaryngology but is not also a seller of hearing instruments and has no financial interest in the business of hearing instrument selling; or

(b) a dispensing audiologist who meets the registration requirements in *Minnesota Rules*, or if no such rules are in effect, an audiologist who holds a current certificate of clinical competence in audiology from the American Speech-Language-Hearing Association.

B. No two members of the advisory council shall be employees of, or have binding contracts requiring sales exclusively for, the same hearing instrument manufacturer or the same employer.

Subp. 2. **Organization.** The advisory council shall be organized and administered according to *Minnesota Statutes*, section 15.059.

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Proposed Rules

Subp. 3. **Duties.** The advisory council shall:

- A. advise the commissioner regarding hearing instrument dispenser registration standards;
- B. advise the commissioner on enforcement of parts 4745.0010 to 4745.0060;
- C. provide for distribution of information regarding hearing instrument dispenser registration standards;
- D. review applications and make recommendations to the commissioner on granting or denying registration or registration renewal;
- E. review reports of investigations relating to individuals and make recommendations to the commissioner as to whether registration should be denied or disciplinary action taken against the individual;
- F. advise the commissioner regarding approval of continuing education sponsors using the criteria in part 4745.0045, subpart 3; and
- G. perform other duties authorized for advisory councils by *Minnesota Statutes*, chapter 214, or as directed by the commissioner.

Board of Unlicensed Mental Health Service Providers

Proposed Permanent Rules Relating to Unlicensed Mental Health Service Providers

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

Explanation of Alternative Notices

The Minnesota Board of Unlicensed Mental Health Service Providers (hereinafter "Board") is hereby giving notice of its intent to adopt rules without public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* sections 14.22 to 14.28 (1988). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* sec. 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1988). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. The comment period will close on December 13, 1989. This period will give interested persons ample time to contact the Board to find out whether the hearing will be cancelled and to plan accordingly.

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Unlicensed Mental Health Service Providers (hereinafter "Board") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* sections 14.22 to 14.28 (1988).

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire December 13, 1989. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by December 13, 1989. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* sections 14.131 to 14.20 (1988) and the hearing notice provided below.

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

Robert A. Sullivan, Executive Director
Board of Unlicensed Mental Health Service Providers
2700 University Avenue West, Suite 225
St. Paul, Minnesota 55114
(612) 649-5490

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* sec. 148B.41, subd. 4 and sec. 148B.47 (1988).

If adopted, the proposed rules would establish the definition of mental health service provider, procedures for filing, and acknowledgement of filing as a mental health service provider. The proposed rules will be published in the *State Register* issue of November 13, 1989, Volume 14, Number 20, and a free copy of the rules may be obtained from the Board by writing or telephoning the Board at the address or telephone number listed above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning the Board at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* section 14.11 (1988).

It is the position of the Board that it is not subject to *Minnesota Statutes* section 14.115 (1988) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* section 14.115, subd. 2 (1988), for reducing the impact of the proposed rules, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the rules as adopted should submit a written request to the Board at the address listed above.

Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing

Please Note That If 25 Or More Persons Submit Written Requests For A Public Hearing With Respect To The Above-Captioned Rules Within The 30-Day Comment Period Pursuant To The Notice Given In Part II Above, A Hearing Will Be Held On December 21, 1989, In Accordance With The Following Notice Of Public Hearing.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1988), in Room 225, Colonial Office Park Building, 2700 University Avenue West, St. Paul, Minnesota 55114, on December 21, 1989, commencing at 9:00 a.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7606. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* sections 14.131 to 14.20 (1988) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the rules would establish the definition of mental health service provider, procedures for filing, and acknowledgement of filing as a mental health service provider. The proposed rules will be published in the *State Register* issue of November 13, 1989, Volume 14, Number 20, and a free copy of the rules may be obtained from the Board by writing or telephoning the Board at the address and telephone number listed above in Part II of this notice.

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* sec. 148B.41, subd. 4, and sec. 148B.47 (1988).

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

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Proposed Rules

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert, St. Paul, Minnesota 55101, telephone: (612) 296-5615.

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

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

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* sec. 14.11 (1988).

It is the position of the Board that it is not subject to *Minnesota Statutes* sec. 14.115 (1988) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* section 14.115, subd. 2 (1988) for reducing the impact of the proposed rules, should it be determined that the Board is governed by section 14.115, are addressed in the Statement of Need and Reasonableness.

Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

Please Note That The Hearing, Notice Of Which Is Given In Part III Above, Will Be Cancelled If Fewer Than 25 Persons Request A Hearing In Response To The Notice Given In Part II Above.

To be informed whether the hearing noticed in Part III above will be held, please call or write the Board before December 15, 1989, and leave your name, address, and telephone number. You will be notified as soon as possible after this date and prior to the hearing, if the hearing has been cancelled.

Robert A. Sullivan
Executive Director
Board of Unlicensed Mental Health
Service Providers
(612) 649-5490

Rules as Proposed (all new material)

9000.0050 PURPOSE.

Parts 9000.0100 to 9000.0200 establish filing procedures for unlicensed mental health service providers. The purpose of the filing procedures is to establish a regulatory system and central registry of persons who provide or purport to provide mental health services.

9000.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 9000.0100 to 9000.0200, the following terms have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means a person who applies to file as a mental health service provider with the board.

Subp. 3. **Board.** "Board" means the Board of Unlicensed Mental Health Service Providers.

Subp. 4. **Mental health services.**

A. "Mental health services" means the provision of any assessment; diagnosis; treatment; aftercare; counseling; therapy including guidance, pastoral care, treatment or therapy for addiction, abuse, or abusive behavior exhibited or received by an individual;

psychotherapy; hypnotherapy or hypnoanalysis; personal analysis; or other services for remuneration. Mental health services are services that are designed to alleviate symptoms, change or reduce disturbed patterns of behavior, enhance intrapsychic awareness, and increase the ability of the individual to adapt to and cope with internal and external stress. Mental health services must use interpersonal, intrapsychic, or behavioral methods. Mental health services may be provided to individuals, couples, families, or groups who are experiencing a problem behavior; have social, interpersonal, or intrapersonal dysfunction; or have cognitive or emotional distress, unwanted anxiety, or other mental, psycho-physiological, or psycho-social conditions that they seek to alleviate.

B. "Mental health services" includes those services in item A. Mental health services does not include services that are:

- (1) primarily for entertainment;
- (2) primarily informational;
- (3) primarily for client advocacy; or
- (4) related to a custodial or maintenance function.

C. "Mental health services" does not include the following areas of practice unless the primary focus is the provision of services as defined in item A: educational, vocational, or career guidance; and spiritual counseling or pastoral care of a congregation, or a congregation member, by clergy when the care is not related to the provision of mental health services in item A.

Subp. 5. **Provider.** "Provider" means a person who provides or purports to provide mental health services for remuneration. A mental health service provider may be:

A. a counselor (crisis, grief, eating disorder, compulsion, phobia or anxiety, drug and alcohol addiction, mental health, pastoral, or sexual and physical abuse);

B. a school and college counselor, if the counselor is providing mental health services as defined in subpart 4;

C. a rehabilitation officer or counselor, if the person provides mental health services as defined in subpart 4;

D. a social worker or marriage and family therapist, if the person is exempt from licensure under *Minnesota Statutes*, section 148B.28, subdivision 4, 5, or 6, or 148B.38;

E. a therapist in an area related to child care, education, new age therapy, holistic therapy, dance, music, or recreation, if the therapist is providing mental health services as defined in subpart 4;

F. a hypnotist or hypnotherapist;

G. a behavior modification practitioner or analyst; and

H. any other person, regardless of title, providing mental health services for remuneration who is not exempt from filing or is not one of the licensed providers described in *Minnesota Statutes*, section 148B.40, subdivision 3.

Subp. 6. **Remuneration.** "Remuneration" means a fee, salary, gift, reward, compensation, barter, or the expectation of payment or voluntary donation for providing mental health services.

Subp. 7. **Variance.** "Variance" means board authorized permission to comply with a rule in a manner other than that generally specified in the rule.

9000.0110 REQUIREMENT TO FILE.

Subpart 1. **Who must file.** A provider of mental health services for remuneration must file with the board on the forms provided, unless specifically excluded from filing by law or by subpart 2.

The application for filing must contain the information required according to *Minnesota Statutes*, sections 148B.06, subdivision 3, and 148B.42.

Subp. 2. **Exclusions from filing.** Persons excluded from filing under subpart 1 include the following:

A. a person specifically excluded from the definition of mental health service provider in *Minnesota Statutes*, section 148B.40, subdivision 3;

B. a person not providing mental health services as defined in part 9000.0100, subpart 4; or

C. a person not providing mental health services for remuneration.

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Proposed Rules

Subp. 3. **Requirement to file.** A provider who wishes to provide mental health services after the effective date of parts 9000.0100 to 9000.0200 must apply to the board and receive acknowledgment of the filing as provided in part 9000.0130 before providing services.

Subp. 4. **Late fees.** A provider who is providing mental health services when parts 9000.0110 to 9000.0200 become effective and who fails to file must pay the late filing fee and the regular filing fee specified in part 9000.0200.

This does not preclude the board from taking action under *Minnesota Statutes*, section 214.11 or from seeking relief under *Minnesota Statutes*, section 148B.42, subdivision 5.

9000.0120 PROCEDURE FOR FILING.

Subpart 1. **Application.** The application for filing must:

- A. be made to the board on the forms provided by the board;
- B. include an affirmation from the applicant that the statements are true and correct to the best of the applicant's knowledge and belief;
- C. be accompanied by a nonrefundable application fee according to part 9000.0200;
- D. be accompanied by a written authorization for the board to make inquiries to the appropriate regulatory agency in this state or any other state where the applicant has provided mental health service, about the applicant's malpractice history, if any;
- E. be accompanied by a written authorization for the board to inquire about the malpractice history, if any, of the applicant at the National Clearing House for Licensure, Enforcement, and Regulation; and
- F. be completed in sufficient detail for the board to determine if the applicant meets the requirements for filing. The board may ask the applicant to provide additional information necessary to clarify incomplete or ambiguous information submitted in the application.

Subp. 2. **Requirements to maintain current information.** A provider must notify the board within 30 days of occurrence of the following:

- A. a change of name, address, or phone number (home and business);
- B. a conviction of a crime against persons, or of a crime reasonably related to the provision of mental health service;
- C. a settlement or award based on alleged malpractice by the provider;
- D. a physical or mental disability that may affect a provider's ability to practice; and
- E. other factors that may reasonably be construed to affect public safety.

The board may take an adverse action under *Minnesota Statutes*, section 148B.45, against a filer who fails to meet the requirements of this part.

9000.0130 ACKNOWLEDGMENT OF FILING.

When an applicant has satisfied the requirements of filing, the board will issue a written "Acknowledgment of Filing" to the applicant. The "Acknowledgment of Filing" is a written statement that the applicant has met the requirements for filing under parts 9000.0100 to 9000.0200. This acknowledgment is personal and is not transferable to another person. It may not be displayed or published in any way. The date the board acts to authorize issuance of the applicant's "Acknowledgment of Filing" is the date on which the term of filing begins.

9000.0140 DENIAL OF FILING.

Subpart 1. **Grounds for denial.** An application for filing may be denied by the board if:

- A. the application does not contain the information necessary for filing as determined by *Minnesota Statutes*, sections 148B.06, subdivisions 1 to 3, and 148B.42, subdivision 1, and the information required by part 9000.0120, subpart 1, and the applicant has not provided the required information within 60 days of application;
- B. the applicant has presented false or misleading information on the application;
- C. the applicant fails to fully disclose disciplinary actions taken in another state, province, or foreign government;
- D. the applicant fails to notify the board of disciplinary action taken against the applicant by a licensing, certifying, or registering authority;
- E. the applicant fails to authorize the board, as required in part 9000.0120, subpart 1, item D, to obtain information from the

appropriate regulatory agency in this state or any other state or foreign government where the individual has provided mental health services; or

F. the applicant has engaged in behavior that is specifically prohibited under *Minnesota Statutes*, section 148B.44.

Subp. 2. **Criminal conviction.** If the applicant has been convicted of a crime under *Minnesota Statutes*, section 148B.44, subdivision 1, paragraph (a) or (b), the board shall follow the standards and procedures in *Minnesota Statutes*, chapter 364, in determining whether to approve or deny an application for filing.

Subp. 3. **Notice of denial.** The board must notify an applicant, in writing, of a denial of an application for filing and the reasons for the denial. If the board denies an application for filing for reasons described in subpart 2, the board's notice must meet the requirements of *Minnesota Statutes*, section 364.05. An application submitted after a denial is a new application and must be accompanied by a new filing fee.

9000.0150 TERM OF FILING.

A filing is valid for one year. The year begins with the date on which the board acts to authorize the issuance of the "Acknowledgment of Filing," according to part 9000.0130, or the date the board acts to reissue the "Acknowledgment of Filing" after suspension, and ends one year later on the last day of the month in which the filing was acknowledged. The filing must be renewed each year.

9000.0160 RENEWAL OF FILING.

Subpart 1. **Renewal notice.** Prior to the date the filing ends under part 9000.0150, the board shall send a renewal notice to the last known address of the provider. The notice must inform the provider of the requirement to renew the provider's filing and pay the current renewal fee by the deadline determined in subpart 2. If the provider does not receive the notice, the provider is still obligated to complete a renewal application and pay the renewal fee specified in part 9000.0200 within the deadline in subpart 2. The renewal application must be made on the forms provided by the board. The forms are available from the board office.

Subp. 2. **Renewal deadline.** The provider must submit to the board the renewal application and the annual renewal fee required in part 9000.0200. The renewal application must be submitted or postmarked on or before the date the filing ends according to part 9000.0150. The renewal application must include an affirmation by the provider that the statements on the form are true and correct to the best knowledge and belief of the provider.

Subp. 3. **Late fees.** A provider seeking renewal must pay the renewal fee and the late fee if the application for renewal is submitted or postmarked after the time period specified in subpart 2.

The late fee must accompany applications of practicing mental health service providers not made by the effective date of this part.

Subp. 4. **Expiration of filing.** A filing expires if it is not renewed with the board within the deadline specified in subpart 2. A filing may be reissued following expiration only if the provider submits a new application and pays the regular and the late filing fees required in part 9000.0200.

Subp. 5. **Reduction of first renewal fee.** A provider who had a valid "Acknowledgment of Filing" before December 5, 1989, upon the first renewal under subpart 2, shall pay the current renewal fee minus a portion of the fee that is equal to 1/12th of the fee for each month from the date of initial acknowledgment to December 5, 1989.

For example, if the provider received a valid "Acknowledgment of Filing" in September of 1989, and the current filing fee is \$60 upon renewal of filing, the provider would have three months credit and would pay only \$45 for the next yearly filing fee, calculated as follows: \$60 - (three months x 1/12th of \$60) = \$45.

9000.0170 BILL OF RIGHTS.

A provider of mental health services must provide clients with the client's bill of rights as required under *Minnesota Statutes*, section 148B.46, including the right to choose freely among available providers. For clients incarcerated in a state or contractual community correctional facility or committed to an institution under a court order, "available providers" means those providers who provide services in the correctional facility in which the client is incarcerated or in the institution to which the client is committed.

9000.0190 VARIANCES.

Subpart 1. **Grounds for variance; variance application.** A filer or applicant may petition the board for a time limited variance

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Proposed Rules

from provisions in parts 9000.0100 to 9000.0200, except for a provision that incorporates a statutory requirement. The petition must be in writing. The board shall grant a variance if the filer or applicant specifies alternative practices or measures equivalent to or superior to those in the rule in question and provides evidence that:

- A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;
- B. adherence to the rule would impose an undue burden on the filer or applicant; and
- C. the granting of the variance will not adversely affect the public welfare.

Subp. 2. **Information required in variance petition.** A petition for a variance must contain the following information:

- A. the specific rule for which the variance is requested;
- B. the reason for the request;
- C. the alternative practices or measures that will be taken if a variance is granted;
- D. the length of time for which a variance is requested; and
- E. any other relevant information the board needs to properly evaluate the petition for the variance.

Subp. 3. **Variance compliance.** A filer or applicant who is granted a variance must comply with the alternative practices or measures specified in the petition for the variance.

Subp. 4. **Renewal of variance.** A variance shall be renewed upon reapplication for a variance if the circumstances justifying the variance continue to exist. A filer or applicant who has been granted a variance must immediately notify the board of any material change in circumstances that affect the variance. A variance shall be revoked if there is a material change in the circumstances that justify the variance.

Subp. 5. **Burden of proof.** The burden of proof is upon the filer or applicant to demonstrate to the board, by a preponderance of the evidence, that the requirements in subparts 1 and 2 have been met.

Subp. 6. **Notice of board's decision.** The board shall notify the filer or applicant in writing when the board grants, denies, renews, or revokes a variance. The notice must state the reasons for the action. If a variance is granted, the notice shall specify the period of time for which the variance is effective, and must state the alternative practices or measures the filer or applicant must meet.

Errata

Department of Health

Correction to Notice to Adopt Rules Relating to Fees for Manufactured Homes Parks and Recreational Camping Areas

The notice that appeared in the *State Register*, Volume 14, Number 18, October 30, 1989, contained two typographical errors.

On page 1092 under the heading "Current Fee", the current renewal fee for high risk establishments was incorrectly stated as \$75. The correct current fee is \$15. The same error appeared on page 1094 of the *State Register*. Again, under the heading "Current Fee" the current renewal fee for high risk establishments was incorrectly stated as \$75. The correct current fee is \$15.

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.

Department of Labor and Industry

Adopted Permanent Rules Relating to OSHA Update

The rules proposed and published at *State Register*, Volume 14, Number 12, pages 709-713, dated September 18, 1989 (14 S.R. 713) are adopted as proposed.

Rules as Adopted

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

[For text of subpart 1, see M.R. 1989]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978 and corrected in Volume 43, No. 216 on November 7, 1978 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes made prior to August 1, 1989:

[For text of items A to K, see M.R. 1989]

L. *Federal Register*, Volume 54:

[For text of subitems (1) and (2), see M.R. 1989]

(3) *Federal Register*, Vol. 54, No. 127, dated July 5, 1989: "Air Contaminants (1910.1000); Corrections to Final Rule."

(4) *Federal Register*, Vol. 54, No. 131, dated July 11, 1989: "Occupational Exposure to Lead (1910.1025); Statement of Reasons-Final Rule."

(5) *Federal Register*, Vol. 54, No. 139, dated July 21, 1989: "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Extension of Partial Stay and Amendment of Final Rule (1910.1001 and 1910.1101)."

(6) *Federal Register*, Vol. 54, No. 144, dated July 28, 1989: "Powered Platforms for Building Maintenance (1910.66)-Final Rule."

[For text of subps 3 to 5, see M.R. 1989]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979 which incorporates changes, additions, deletions and corrections made up to October 17, 1978 and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to August 1, 1989:

[For text of items A to D, see M.R. 1989]

E. *Federal Register*, Volume 54:

(1) *Federal Register*, Vol. 54, No. 105, dated June 2, 1989: "Underground Construction (1926.800) Final Rule."

(2) *Federal Register*, Vol. 54, No. 139, dated July 21, 1989: "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite (1926.58); Extension of Partial Stay and Amendment of Final Rule."

[For text of subp 7, see M.R. 1989]

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Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Veterans Affairs

Minnesota Veterans Homes Board

Adopted Emergency Rules Relating to Veterans Homes Admissions, Discharges, Cost of Care Calculations, and Maintenance Charges

The rules proposed and published at *State Register*, Volume 14, Number 11, pages 618-644, September 11, 1989 (14 S.R. 618) are adopted with the following modifications:

Rules as Adopted

9050.0040 [Emergency] DEFINITIONS.

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 who has the legal authority to take a particular action on behalf of an applicant or resident. The legal authority can be granted by statute, by a court, or by federal or state regulation.~~

9050.0050 [Emergency] 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 [Emergency]. The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900 [Emergency].

~~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.

9050.0200 [Emergency] DISCHARGE.

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

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 payment obligations in the admission agreement as provided for in part 9050.0040, subpart 5, item C;~~

E. the resident or resident's legal representative ~~or spouse;~~

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

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

C. contain documentation supporting the grounds alleged for the discharge; ~~and~~

D. state that the resident has the right to appeal the discharge and a description of the appeal procedures.

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 3, item D, is subject to a reinstatement hearing reconsideration if the resident reports his or her whereabouts to the administrator of the facility and requests the reinstatement hearing reconsideration within 30 days from the resident's departure from the facility without notice.~~

9050.0600 [Emergency] 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.

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 property which 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.

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 as those funds become available to the resident.~~ This item applies only to settlements entered into after the effective date of parts 9050.0010 to 9050.0900 [Emergency].

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.

F. Other real property must be excluded ~~according to~~ if required by 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:

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

9050.0650 [Emergency] 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 [Emergency] and 9050.0600 [Emergency] 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, except for transfers permitted under subpart 2, item B.

9050.0900 [Emergency] AUTHORIZATION FORMS.

Subp. 3. **Refusal to sign authorization forms; consequences.** The applicant or resident, applicant's or resident's legal representative,

Emergency Rules

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 [Emergency], 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.

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.

Board of Animal Health

Notice of Board Meeting

A meeting of the Board of Animal Health has been scheduled for Friday, December 15, 1989 at the Board offices at 9:30 a.m. The Board offices are located at 90 W. Plato Blvd., St. Paul, MN 55107.

Information about this meeting may be obtained by calling the Board offices at 612-296-5000.

Dated: 3 November 1989

Eugene H. Kirchoff
Accounting Supervisor

Minnesota State Arts Board

Notice of Board Meeting

A meeting of the Minnesota State Arts Board will take place at 9:30 a.m. on Thursday, November 16, 1989 at the Arts Board offices, 432 Summit Avenue in Saint Paul. The public is invited to attend. Open meeting law guidelines will be in effect.

Agenda items will include reports on future folk arts programming initiatives, board and staff attendance at the annual meeting of the National Assembly of State Arts Agencies, and review of September Career Opportunity Grant awards.

For more information on this meeting or other programs, contact the Arts Board at 432 Summit Avenue, Saint Paul, MN 55102.

Board of Medical Examiners

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Relating to Licensing and Examinations

NOTICE IS HEREBY GIVEN that the Minnesota Board of Medical Examiners (hereinafter "Board") is seeking information or opinions from sources outside the Board in preparing to propose the adoption of the rules relating to Licensing and Examination. The adoption of the rules is authorized by *Minnesota Statutes* § 147.01, Subdivision 3, which permits the Board to adopt rules as may be necessary to carry out the purposes of Chapter 147.

The Board requests information and opinions concerning the subject matter of the rules. 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:

H. Leonard Boche, Executive Director
Minnesota Board of Medical Examiners
2700 University Ave. W., #106
St. Paul, MN 55114-1080

Oral statements will be received during regular business hours over the telephone at 612-642-0538 and in person at the above address.

All statements of information and opinions shall be accepted until December 1, 1990. Any written material received by the Board shall become part of the rulemaking record to be submitted to the Attorney General or administrative law judge in the event that the rules are adopted.

Dated: 2 November 1989

H. Leonard Boche
Executive Director

Department of Public Safety

Driver and Vehicle Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing License Revocation for Alcohol and Controlled Substance Related Incidents

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the amendments to the rules governing license revocation for alcohol and controlled substance related incidents.

The adoption of the rules is authorized by *Minnesota Statutes*, sections 169.128 and 171.165, subdivision 5. Section 169.128 permits the agency to adopt rules governing chemical tests for intoxication and drivers under the influence of alcohol or controlled substance. Section 171.165, subdivision 5, requires the agency to adopt rules to administer the disqualification of commercial vehicle drivers and the issuance of class C licenses to those disqualified drivers so eligible.

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:

Katherine Burke Moore 211 Transportation Building
Department of Public Safety St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 297-5755 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 amendments are adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Another related Public Safety OFFICIAL NOTICE appears on page 1190.
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Regional Transit Board

Public Hearing on Metro Mobility

The Regional Transit Board will hold a public hearing on Monday, December 4, 1989 at 4:00 p.m. on the 1st floor Mears Park Centre, 230 E. 5th Street, St. Paul, MN 55101 on the provision of Metro Mobility services. This hearing is held pursuant to *Minnesota Statute* 473.386 section d. Interested persons are encouraged to attend this hearing and offer public comment. Please call Mary Fitzgerald, board secretary, if you wish to speak at the public hearing or if you need an interpreter. You may also sign up at the hearing. The Regional Transit Board offices are located on the 7th floor of Mears Park Centre, 230 E. 5th Street, St. Paul, MN. 55101, telephone: 292-8789.

Michael Ehrlichmann
Chairman

Official Notices

Department of Trade and Economic Development

Minnesota Job Skills Partnership Board

Notice of Annual Meeting

The annual meeting of the Minnesota Job Skills Partnership Board will be held on Monday, November 20, 1989, at 1:00 p.m. in Room 300 South State Office Building, St. Paul.

The Minnesota Job Skills Partnership Board solicits grant proposals from educational and other non-profit organizations for training programs designed for specific businesses. Please contact the Partnership office at 612/296-0388 for details regarding grant applications.

Following are application deadline dates and Board meeting dates for 1990:

Deadline Dates for New Grant Applications

- January 19, 1990
- April 13, 1990
- July 20, 1990
- October 19, 1990

MJSP Board Meeting Dates

- February 20, 1990
- May 15, 1990
- August 21, 1990
- November 20, 1990 (annual meeting)

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minnesota Statutes* § 169.825. Order No. 75451

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, 75193, and 75314 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

WATONWAN COUNTY

- C.S.A.H. 2 FROM THE WEST JCT. T.H. 60 TO EAST JCT. T.H. 60 IN THE CITY OF BUTTERFIELD, MINNESOTA (12 MONTH).

Dated: 3 November 1989

Leonard W. Levine
Commissioner

Board of Water and Soil Resources

Meeting Notice

The Board of Water and Soil Resources will hold their November 22, 1989 regularly scheduled monthly meeting at the Holiday Inn-East, St. Paul, Minnesota.

Board of Water and Soil Resources

Outside Information or Opinions Sought Regarding Proposed Rule Governing Local Water Resources Protection and Management Program

NOTICE IS HEREBY GIVEN that the Board of Water and Soil Resources is seeking information or opinions from sources outside

State Contracts and Advertised Bids

the agency in preparing to propose the adoption of the rule governing grants to counties to implement comprehensive local water plans. The adoption of the rule is authorized by *Minnesota Statutes, Laws of 1989*, Chapter 326, which requires the agency to adopt a rule which specifies the process and priorities for awarding grants to counties for implementing comprehensive local water plans.

The Board 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: Greg Larson, Board of Water and Soil Resources, 155 South Wabasha Street, Suite 104, St. Paul, MN 55107. Oral statements will be received during regular business hours over the telephone at 296-3767 and in person at the above address.

All statements of information and opinions shall be accepted until November 30. Any written material received by the Board of Water and Soil Resources 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: 13 November 1989

Jim Birkholz, Executive Director
Board of Water and Soil Resources

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.

Commodity: Laboratory casework
Contact: John Bauer 296-2621
Bid due date at 2pm: November 21
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07300 65134 1

Commodity: Mobile radios
Contact: Pam Anderson 296-1053
Bid due date at 2pm: November 21
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07500 63375

Commodity: Truck w/van body
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: November 21
Agency: DHS-Regional Treatment Center
Deliver to: Brainerd
Requisition #: 55304 08368 1

Commodity: Light fixtures
Contact: Joan Breisler 296-9071
Bid due date at 2pm: November 20
Agency: Military Affairs Department
Deliver to: Little Falls
Requisition #: 01000 06079

Commodity: Compartment/steam cooker
Contact: Joan Breisler 296-9071
Bid due date at 2pm: November 20
Agency: Correctional Facility
Deliver to: Faribault
Requisition #: 02310 17370

Commodity: Nicotine air samplers
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: November 22
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 12500 42513

State Contracts and Advertised Bids

Commodity: Infrared autoflow incubator
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: November 27
Agency: State University
Deliver to: Bemidji
Requisition #: 26070 13925

Commodity: RFP Satellite Weather Information System
Contact: Donald Olson 296-3771
Bid due date at 2pm: November 21
Agency: Aeronautics—Transportation Department
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: Meat for January delivery
Contact: Linda Parkos 296-3725
Bid due date at 2pm: December 15
Agency: Correctional Facility
Deliver to: Oak Park Heights
Requisition #: 78630 09078

Commodity: Poultry for January/February/March 1990
Contact: Linda Parkos 296-3725
Bid due date at 2pm: December 15
Agency: Correctional Facility
Deliver to: Oak Park Heights
Requisition #: 78630 09079

Commodity: Compaq 386 Portable
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: November 22
Agency: Natural Resources Department
Deliver to: Bemidji
Requisition #: 29001 15718

Commodity: Rental and Servicing of Portable Latrines Camp Ripley
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: November 22
Agency: Military Affairs Department
Deliver to: Camp Ripley, Little Falls
Requisition #: 01000 06078

Commodity: Copier rental—St. Peter
Contact: Teresa Ryan 296-7556
Bid due date at 2pm: November 22
Agency: Human Services Treatment Center
Deliver to: St. Peter
Requisition #: 55105 08536

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.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Natural resources heritage booklet, 2M books, 12 pages + cover, 17"x11" folded to 8½"x11", 18 halftones, camera ready, 2-sided, saddle stitch
Contact: Printing Buyer's Office
Bids are due: November 15
Agency: Natural Resources Department
Deliver to: St. Paul
Requisition #: 2670

Commodity: Employment booklet, 5M books 20 pages + cover, camera ready, 2-sided, 8 halftones, saddle stitch, 7"x10" finished size
Contact: Printing Buyer's Office
Bids are due: November 15
Agency: Council on Disability
Deliver to: St. Paul
Requisition #: 2780

Commodity: Notice of failure to comply, 100M 4-part continuous form, 8¼"x3¾" overall, type to set, 1-sided
Contact: Printing Buyer's Office
Bids are due: November 15
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 2872

Commodity: E-48 envelopes, 5M 12"x16" expansion, 40# brown kraft, 1-sided, with flap closing and string tied
Contact: Printing Buyer's Office
Bids are due: November 15
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 2835

Commodity: Revolving fund invoice, 1M 3-part sets, 1-sided, 6¼"x8½" overall
Contact: Printing Buyer's Office
Bids are due: November 16
Agency: Administration Department
Deliver to: St. Paul
Requisition #: 2889

Commodity: Certificate of veterinary inspection, 50M 4-part sets, 12"x8½" overall, negs furnished, 1-sided, preprinted numbering
Contact: Printing Buyer's Office
Bids are due: November 16
Agency: Animal Health Board
Deliver to: St. Paul
Requisition #: 2867

Professional, Technical & Consulting Contracts

Commodity: Official small animal health certificate, 15M 4-part sets, 8"x6¾" overall, negs furnished, 1-sided, preprinted numbering

Contact: Printing Buyer's Office

Bids are due: November 16

Agency: Animal Health Board

Deliver to: St. Paul

Requisition #: 2869

Commodity: High pressure piping permit, 500 3-part forms, 8½"x11" overall, camera ready, 1-sided, preprinted numbering

Contact: Printing Buyer's Office

Bids are due: November 17

Agency: Labor & Industry Department

Deliver to: St. Paul

Requisition #: 2868

Commodity: Requisition for motor pool vehicle, 15M 4-part sets, 8½"x6¼" overall, camera ready + negs, 1-sided

Contact: Printing Buyer's Office

Bids are due: November 17

Agency: Administration Department:
Central Stores

Deliver to: St. Paul

Requisition #: 2918

Commodity: Dept. Purchase Order, 7M pads, 25 5-part sets per pad, 9¾"x8½" overall, negs available, 1-sided, plus cover, 2-sided, saddle stitch

Contact: Printing Buyer's Office

Bids are due: November 17

Agency: Admin Department—Central Stores

Deliver to: St. Paul

Requisition #: 2919

Commodity: State Trooper Decals (500); Patrol Car Door—"unmarked"—decals (100); Numbered Decals (180)

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Public Safety Department—State Patrol

Deliver to: St. Paul

Requisition #: 2982 3 4

Commodity: Printed Green Return Envelopes, 20M #9

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Secretary of State

Deliver to: St. Paul

Requisition #: 3000

Commodity: Wage Detail Report, 50M 2-part form, 8½"x10" overall, 1- and 2-sided, keylines available

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Jobs & Training Department

Deliver to: St. Paul

Requisition #: 2990

Commodity: Grade Mailer, 50M on 15# white sulphite and 10M on salmon sulphite, 5-part sets, camera ready, 1-sided

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Winona State University

Deliver to: Winona

Requisition #: 2972

Commodity: Operation Identification Brochure, 50M 8½"x11" folded twice to 8½"x3¾" negs available, 2-sided

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Minnesota Crime Watch

Deliver to: St. Paul

Requisition #: 2980

Commodity: "What to Do Before the Burglar Comes" 25M books, 32-pages self cover, 6"x9", negs available, 2-sided

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Minnesota Crime Watch

Deliver to: St. Paul

Requisition #: 3016

Commodity: "Outsmarting Crime—A Guide to Safer Living" 25M books, 24-pages self cover, 6"x9", negs available, 2-sided

Contact: Printing Buyer's Office

Bids are due: November 22

Agency: Minnesota Crime Watch

Deliver to: St. Paul

Requisition #: 2979

Professional, Technical & Consulting Contracts

Department of Corrections

Oak Park Heights Facility

Notice of Request for Proposals for Providing Bid Proposal Information

NOTICE IS HEREBY GIVEN that the Minnesota Correctional Facility-Oak Park Heights Industry Program (MCI) is requesting proposals for nationwide State, County and City bid proposals in the categories of products made by MCI. Contract period will be January 1, 1990 through June 30, 1991. The estimated cost will not exceed \$3,000 for the period of January 1, 1990 through June 30, 1990 and \$6,000 for the period of July 1, 1990 through June 30, 1991. The proposals must be submitted by 4:00 p.m., December 8, 1989 to: Charlotte Brass, Acting Industry Development Administrator. Please contact Ms. Brass at (612) 779-1496 if interested.

Department of Health

Division of Disease Prevention and Control

AIDS/STD Prevention Services Section

Request for Proposals for Ad Placements of Acquired Immunodeficiency Syndrome (AIDS) and Other Sexually Transmitted Diseases (STDs) Risk Reduction Messages

NOTICE IS HEREBY GIVEN that the AIDS/STD Prevention Services Section, Division of Disease Prevention and Control, Minnesota Department of Health is seeking proposals from qualified agencies for targeted placement of print and broadcast media products with AIDS/STD risk reduction messages.

Background

The Minnesota Department of Health (MDH) has \$50,000 of state funds for targeted ad placements of AIDS/STD risk reduction messages for the period, April 1, 1990-March 30, 1992. The contract period and the total amount of funding for placement may be extended beyond the given contract period at the option of the state.

Objectives

The objectives of the AIDS/STD media placement effort are to:

- Increase understanding about the relationship between AIDS and STDs.
- Suggest and reinforce risk reducing behaviors for AIDS and STDs.
- Increase awareness and utilization of the MDH supported counseling and testing sites.
- Increase awareness of "barriers" to risk-reducing behaviors such as crack, alcohol, etc.
- Promote the Minnesota AIDSline as a primary source of accurate, up-to-date information regarding AIDS/STDs.

Target Audiences

The proposed media placement effort is to be targeted at the following groups which are not mutually exclusive:

- Communities of Color (Blacks, Hispanics, American Indians, Asians)
- Junior and Senior High School-aged Youth (ages 13-18)
- College-aged Young Adults (ages 19-24)
- Sexually Active Singles (ages 20-49)

Proposal Information

Proposals are due to the Department of Health by 4:30 p.m. on January 4, 1990. Late proposals will not be accepted. Notice of awards will be made on or after February 23, 1990. The complete Request for Proposals is available from:

Judy Beniak, Chief
AIDS/STD Prevention Services Section
Minnesota Department of Health
717 S.E. Delaware Street, P.O. Box 9441
Minneapolis, Minnesota 55440
612/623-5698

Department of Health

Diabetes Control Program

Notice of Request for Applications for Preventing and Controlling the Complications of Diabetes Through Quality Assurance Programs

Purpose

The Minnesota Department of Health Diabetes Control Program is seeking applications from primary care providers interested in

Professional, Technical & Consulting Contracts

competing for funds to conduct quality assurance activities directed to the complications of diabetes. The purpose of these contracts is to improve the preventive care given to persons with diabetes in the areas of diabetic eye disease, hypertension, lower extremity amputations and pregnancy.

Eligibility Criteria

Eligible applicants for these funds are primary care providers who provide direct medical care to a minimum of 75 persons with diabetes and who are interested in enhancing or developing a diabetes quality assurance program in their clinic.

Scope of the Program

The program focus is to establish quality assurance activities within a primary care clinic that address one or more of the following diabetes complications: diabetic eye disease, coexisting hypertension, lower extremity amputations, and pregnancy and diabetes (excluding gestational diabetes). Activities developed through this program will serve as models to be replicated in other Minnesota primary care settings.

Budget/Time Frame

A total budget of \$15,000 is available to fund up to five clinics at approximately \$3,000 each. The contractual funds are for an estimated eight month contract period that will start no earlier than January 2, 1990 and terminate August 31, 1990.

Program Requirements

During the contract period, the clinic must: 1) establish a list of the persons with diabetes who receive medical services from the clinic; 2) conduct a chart review of this target population for baseline information; 3) develop or adopt standards for preventing or controlling one or more of the above named diabetes complications; 4) implement the standards; 5) establish a system for monitoring whether the standards are being successfully implemented.

The MDH in addition to financial support can provide technical assistance to the clinic in the implementation of this quality assurance program.

Prospective applicants who have questions and/or would like a copy of the Request for Applications may call or write:

Cynthia Clark
Diabetes Control Program
Minnesota Department of Health
717 Delaware Street SE
P.O. Box 9441
Minneapolis, Minnesota 55440
Telephone: (612) 623-5287

Applications are due Friday, December 15, 1989, by 4:30 p.m.

Department of Natural Resources

Office of Planning

Notice of Request for Proposals for Consultant to Explore Future Directions for the Minnesota DNR in Geographic Resource Information Systems

The Minnesota DNR is requesting proposals from any qualified individual or firm interested in assisting to define strategies advancing geographic land resource information systems. This study will assess current activities, prioritize needs, and recommend courses of action.

A pre-bid conference will be held November 15, 1989. Proposals must be received by 4:30 p.m., December 15, 1989. Interviews of finalists will be held January 16, with final selection by January 30, 1990. This study will extend over a five-month period beginning February 1, 1990. Estimated available funds are in the area of \$90,000.

For a copy of the Request for Proposals contact:

Glenn L. Radde, Office of Planning
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, Minnesota 55155-4010
(612) 296-4798

State Board of Public Defense

Administrative Fiscal Director Position Available

Full-time administrative position under general supervision of the Chief Administrator of the State Board of Public Defense, performing work of considerable difficulty in the planning, preparation and development of budget and related policies. Requires related College degree and considerable administrative experience related to State of Minnesota accounting, budgetary, auditing, and fiscal policies, as well as interaction with Minnesota Legislature, State and Local officials. Employee description and application requirements are available at 875 Summit Avenue, LEC 303, St. Paul, MN 55105 (612/290-6418). Applications accepted until 4:30 p.m., November 17, 1989.

State Board of Public Defense

State Public Defender Position Available

Full time position under the supervision and direction of the State Board of Public Defense. The State Public Defender shall be a full time qualified attorney, licensed to practice law in the State of Minnesota, serve in the unclassified service of the State, and shall not engage in the general practice of law. Requires extensive experience and must exhibit a demonstrated commitment as an advocate to the protection of the rights of indigents, and a comprehensive knowledge of due process as well as criminal law and procedure. Salary and benefits commensurate with experience and set by Board of Public Defense. Revised applications must be completed and can be obtained from the State Board of Public Defense, 875 Summit Avenue, LEC 303, St. Paul, Minnesota, 55105 (612/290-6418). Application process deadline has been extended until 4:30 p.m., November 17, 1989.

Department of Transportation

Request for Proposals for Inter-City Bus Service Design, Marketing, Operation & Evaluation (Morris, Mn. to Minneapolis Corridor)

The Minnesota Department of Transportation is seeking individuals and firms with experience, to submit proposals for the design, promotion, *actual* operation and evaluation of a 1 year inter-city bus service *demonstration* project. The project would be designed to provide same day round-trip service from Morris, Minnesota into Minneapolis.

The Department of Transportation wants the project to demonstrate whether this regular route service can be operated profitably. Funding (other than farebox revenues and local share amounts) will be provided by the State of Minnesota through the Transit Assistance Program. Funding for this project is *limited*. Proposers are asked to be innovative in their *project* service concept, marketing approach and service delivery while making every effort to stay very near industry average costs. The submission date for completed proposals is 3:30 p.m. *December 4, 1989*. Late proposals will not be accepted. 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 Frank Bibeau, Office of Transit, 815 Transportation Building, St. Paul, Minnesota 55155, telephone (612) 296-2036.

Supreme Court Decisions

Decisions Filed 9 November 1989

C2-88-1765 C2-88-2012 Tia Marie Johnson and State of Minnesota, petitioners, Appellants v. Terry Lee Hunter. Court of Appeals.

1. The trial court's refusal to vacate the order nunc pro tunc and reinstate the Hennepin County action or, in the alternative, to vacate the dismissal with prejudice and enter a dismissal without prejudice was not an abuse of discretion.
2. The child is not precluded, by reason of the earlier dismissal with prejudice of the paternity action brought by her mother and the state, from bringing a paternity action against her alleged father. Due to the child's paramount interests at stake, she is entitled to an opportunity for an adjudication on the merits of her parentage.
3. The trial court did not abuse its discretion in awarding attorney fees and costs to the alleged father in connection with the denial of a motion to vacate.

Affirmed in part; reversed in part. Popovich, C.J.

C9-88-1603 Flooring Removal, Inc. v. Dan T. Ryerson, et al., petitioners, Appellants. Court of Appeals.

Reversed and judgment reinstated. Kelley, J.

Order

C2-88-1278 In Re Petition for Disciplinary Action against Nels W. Truelson, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Kelley, J.

Announcements

Nursing Home Deaths Probed: Health Commissioner Sister Mary Madonna Ashton has announced that she will appoint a special task force to look at nursing home deaths in the state—and the possible role of patient abuse or neglect in those deaths. The newly formed advisory group will be known as the Nursing Home Mortality Review Task Force. The 15 member Task Force will include representatives of the medical and nursing professions, health care consumers and representatives of the nursing home industry. The Task Force is being formed in response to increased reports of patient deaths, allegedly involving abuse or neglect, in Minnesota nursing homes. The Office of Health Facility Complaints, at the Minnesota Department of Health (MDH), received 37 such reports during the 12 month reporting period that ended last June. That compared with 15 during the previous year—and 17 so far during the current reporting period, which began in July. Department investigators were able to find evidence of abuse or neglect in 47% of the 37 cases that came to their attention during the 1988-89 reporting period. Abuse or neglect was also substantiated in half of the six cases that have been investigated so far during the current reporting period.

Governor's Appointment: Governor Rudy Perpich has appointed Sally Howard of Minneapolis to a position on the new Gambling Control Board. Howard replaces Rozann Prich of Golden Valley, who resigned. Howard is director of the health sciences public relations at the University of Minnesota and a former member of the Minneapolis City Council. The six-member board is responsible for issuing, suspending and revoking licenses of organizations, bingo halls, manufacturers and distributors of gambling equipment.

Crop Insurance Application Deadline Extended: Agriculture Commissioner Jim Nichols granted a second deadline extension for farmers to return applications for partial reimbursement of crop insurance premiums. Farmers must now return applications to the Minnesota Department of Agriculture by Nov. 15. The deadline was extended to help an insurance company having trouble meeting the deadline since it would normally distribute its premiums during January 1990. All Minnesota insurance companies were notified of the Nov. 15 deadline. Copies of insurance premiums are necessary for farmers to qualify for the program. No more deadline extensions can be made since the law mandates appropriations be distributed by Dec. 1, 1989. The Minnesota Department of Agriculture mailed application forms to over 25,000 Minnesota farmers eligible for partial reimbursement during October.

Farm Consulting Services: Farmers needing assistance with any financial or farm-related problem are encouraged to contact their nearest Farm Advocate for help, says Minnesota Commissioner of Agriculture Jim Nichols. The award-winning Minnesota Department of Agriculture Farm Advocate Program features experienced farmers trained to help other farmers develop plans to deal with drought, prepare financial documents, restructure debt, provide legal rights information and referrals, negotiate and mediate with lenders and apply for social services. The program has served over 13,000 farm families since its inception in 1984 and is a free service of the Minnesota Department of Agriculture. For the name of your nearest Farm Advocate, call toll-free to the Attorney General's Farm Hot Line, 1-800-652-9747, or contact your local extension service office.

Farm Bill Task Force Hearings: The Food and Farm Policy Task Force has finalized its meeting schedule for hearings to develop policy recommendations regarding the 1990 farm bill. Hearings are scheduled for: • St. Charles, November 14, St. Charles Senior Center, 7:30 p.m., • Grove City, November 21, Grove City Community Center, 7:30 p.m., • Pipestone, November 28, Pipestone Southwest Technical College Auditorium, 10 a.m., • Mapleton, November 28, Mapleton High School, 7:30 p.m., • Thief River Falls, December 14, site to be determined, • Moorhead, December 14, Moorhead State University, King Hall Auditorium, Room 110, 7:30 p.m., the task force will hear comments on any aspect of the 1990 farm bill but especially invites testimony on commodity prices, rural development and community revitalization, food assistance programs, export promotion, imported food safety and farm credit. The task force met for the first time Oct. 26 at Long Prairie. Testimony was heard in support of greater inspection of food entering the United States, change in the discriminatory milk marketing order system, emphasis on rural development and community revitalization, commodity export promotion and the regulation of insecticides in both urban and rural Minnesota.

Announcements

Geese Cholera: An outbreak of avian cholera at Lac qui Parle seems to be under control, according to Minn. Dept. of Natural Resources (DNR) officials. The disease claimed more than 4,000 geese from among a population of about 167,000 at the wildlife management area near Montevideo in west central Minnesota. Although avian cholera outbreaks in other parts of the country have claimed up to 20% of a flock, DNR officials said early detection and cleanup helped hold down mortality at Lac qui Parle. Avian cholera has existed in the U.S. since before 1900 and has become an annual problem in some parts of the country, mostly west of the Mississippi River. The Lac qui Parle outbreak is the first confirmed case in Minnesota.

Wood Duck Survey: As wood ducks are departing Minnesota this fall, researchers are conducting a study about wood duck migration. Results of the survey will be compiled and published in a future issue of *The Wood Duck Newsgram*. Specific information needed includes: the number of wood ducks in the observer's area; the ratio of adult males to females; the number of young males (young and adult females are difficult to distinguish); food favored by the ducks (acorns, corn, etc.); date when the flock began decreasing; date the last wood duck was observed; degree to which hunting or other activities affected migration; and any other observations about why wood ducks are attracted to an area. Habitat information is also sought, such as the presence of nesting cavities and wood duck houses, and the proximity of water habitat. Information, along with the observer's name and address, should be sent to: Lyle Bradley, 15202 Seventh Ave., Anoka, MN 55304. For more information, contact: Carrol Henderson, Nongame Wildlife (612) 296-3344.

Wanted: Tree City USA Candidates: Each year, the National Arbor Day Foundation honors outstanding urban forestry programs with the Tree City USA designation. Last year, 50 Minnesota cities qualified for the designation, according to Meg Hanisch, public affairs specialist for the Minnesota Department of Natural Resources (DNR) Division of Forestry. Communities desiring to participate in the 1989 program must complete an application and send it to the DNR Division of Forestry no later than Dec. 31. Each application is reviewed by the state forester and forwarded to the National Arbor Day Foundation in Nebraska City, Neb. Winning communities will receive a Tree City USA flag, a walnut-mounted plaque, and signs to place at the city entrances. To be officially recognized and designated as a 1989 Tree City USA, communities must meet four criteria. The community must have: • a legally constituted tree board or department; • a community tree ordinance; • an active and comprehensive community forestry program supported by a minimum of \$2 per capita; • an Arbor Day proclamation and public tree planting ceremony. "Many of the communities that have received this award in the past have surpassed these requirements and are exhibiting innovative, urban uses of trees," Hanisch said. For more information or an application for the Tree City USA program, contact the DNR Division of Forestry, 500 Lafayette Road, St. Paul, MN 55155-4044, or call (612) 296-5958, or 1-800-652-9747 (ask for DNR Forestry).

Official Notices

Department of Public Safety

Driver and Vehicle Services

Notice of Solicitation of Outside Information or Opinions Sought Regarding Proposed Rule Governing Non-Alcohol-Related Driver's License Withdrawal, Commercial Driver Disqualification, and License Reinstatement

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing non-alcohol-related drivers' license withdrawal, commercial driver disqualification, and license reinstatement. The adoption of the rule is authorized by *Minnesota Statutes*, sections 14.06, 65B.68, and 171.165, subdivision 5. Section 14.06 requires the agency to adopt rules specifying all formal and informal procedures related to agency policies that directly affect the rights of the public. Section 65B.68 permits the agency to adopt rules governing no-fault automobile insurance. Section 171.165, subdivision 5, requires the agency to adopt rules governing the disqualification of commercial vehicle drivers and the issuance of class C licenses to those disqualified drivers so eligible.

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:

Katherine Burke Moore
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 297-5755 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

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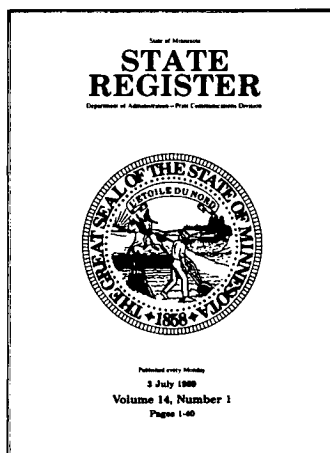
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