

State Register

STATE OF MINNESOTA



HIGHLIGHTS:

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—Proposed Rules from the Board of Cosmetology

VOLUME 2, NUMBER 1

JULY 11, 1977

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Example: Volume 2, *State Register*, page 94 (short form: 2 S.R. 94).



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The *State Register* is published weekly, on Monday, by the State of Minnesota, Department of Administration, Office of the State Register, Suite 203, 95 Sherburne Avenue, St. Paul, Minnesota 55103, pursuant to Minn. Stat. § 15.0411. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for second and additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630.

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State Arts Board Review of Requests for Distribution of Grants and Loans

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Rules as Adopted

MSAB 1: Authority for the rules. These Rules are adopted pursuant to Minn. Stat. § 139.10, subs. (e) and (f) (Supp. 1975).

MSAB 2: Purpose of the rules. The purpose of these Rules is to set forth procedures to be followed by the Board in receiving and reviewing requests for and distribution of grants, loans and other forms of assistance.

MSAB 3: Whom the rules govern. These Rules govern the Board; advisory committees; and all individuals, sponsoring organizations, departments, and agencies of the state and political subdivisions who wish to receive grants, loans or other forms of assistance.

MSAB 4: Definitions. For the purpose of these Rules, the following terms shall have the meanings given them:

A. "Advisory committee" means a group of citizens selected and convened by the Board to review and recommend on policy and distribution of forms of assistance offered by the Board.

B. "Applicant" means (1) any individual who submits an application for a grant, loan or other form of

assistance, or (2) any sponsoring organization, department or agency of the state or political subdivision on whose behalf an application for a grant, loan or other forms of assistance is submitted.

C. "Authorizing official" means the person who signs the grant application of a sponsoring organization, political subdivision, or department or agency of the state.

D. "Board" means the Minnesota State Arts Board.

E. "Certified audit report" means a document prepared and signed by a Certified Public Accountant showing the total fiscal activity of a project or program.

F. "Grant contract" means the grant notification letter signed by grantee or grantee's authorizing official.

G. "Grantee" means an applicant whose application is accepted by the Board and who signs the grant contract.

H. "Grant notification letter" means the letter notifying an applicant of acceptance or rejection of his application.

I. "Guidelines" means statements issued and published periodically by the Board containing a description of available grant categories, deadlines, review dates, suggested project starting dates, and general criteria to be met by all applicants.

J. "Loans" means monies given to an applicant which are to be repaid to the Board according to the conditions specified in the grant contract.

K. "Matching Funds" means grantee's share of the financial support for a project or program. All grantees, other than individuals, are required to match grants dollar for dollar. The source of matching funds may be one or more of the following:

1. **Cash.** Applicant must be able to prove availability of cash matching funds by bank statements, etc.

2. **In Kind.** In kind means items such as materials, labor, space, etc., which can be given a dollar value. Applicant must be able to prove that in kind match is committed to the project or program.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

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3. Revenue. Revenue means anticipated receipts from sale of tickets or products.

L. "Other Form of Assistance" means staff consultation or workshops with individuals or groups who have developed or are interested in developing projects or programs in the arts but need advice on matters such as budgeting, administration, production, technology, etc.

M. "Project director" means person designated by a sponsoring organization, political subdivision or department of agency of the state as the individual responsible for the implementation of the project or program for which the application is made.

N. "Regional arts task force" means an advisory committee which reviews applications originating within its district. The state is divided into thirteen regional development commission districts.

O. "Subsidy grants" means grants to sponsoring organizations for general purposes as opposed to a special project.

MSAB 5: Requests for information. All requests for information concerning the grant application process may be made at the offices of the Board, in person, by phone or letter. Upon such a request, the Board will provide a copy of these Rules, an official application form, a copy of the current guidelines and any other information which may be helpful.

MSAB 6: Grant application and review procedure.

A. All applications for grants and loans [[and other forms of assistance]] must be made on official application forms available at the offices of the Board. Requests for other forms of assistance may be made directly to MSAB staff in person or by telephone or by letter.

B. A copy of these Rules and the current guidelines will be included with each application form.

C. All applications must be made by the deadlines and according to the instructions and conditions set forth in the guidelines.

D. All applications of a sponsoring organization, political subdivision or agency or department of the state must name a project director.

E. The staff will review all applications for accuracy and completeness. The staff will also convene advisory committee meetings for purposes of reviewing individual program grant applications and will convey pertinent information regarding each application to the advisory committee.

F. Applicants will be notified of the receipts of the applications and the need, if any, for changes or supplementary material.

G. Applications, when complete, will be submitted to the appropriate advisory committee for review.

H. After its review, the advisory committee will submit its recommendations to the Board along with a statement explaining its reasons for recommending acceptance or rejection of the application.

I. The Board will receive comments and recommendations from the professional staff on all aspects of applications, with the exception of artistic merit.

J. The Board shall give considerable weight to the recommendations of the advisory committees.

K. The Board shall make all final decisions as to acceptance or rejection of grant applications.

L. The Board may request a revised budget and/or project description before taking final action.

M. All applicants will receive a grant notification letter of acceptance or rejection within 30 days of final review of the application by the Board except when a revised budget is necessary. In that case, applicants will receive a grant notification letter within 30 days of receipt of the revised budget by the Board.

N. Application and supplementary materials will not be returned unless requested.

MSAB 7: Responsibilities of grantee.

A. Grantee or authorizing official must sign or return to the Board, within 30 days, one copy of the grant notification letter.

B. Grantee must acknowledge assistance by the Board on all written materials relating to the project or program such as programs, news releases, posters, etc.

C. Grantee must notify the Board in writing if the program or project is changed in any way, at any time from the way in which it was described in the grant application.

D. Grantee must permit the Board a reasonable opportunity to view the project or program at any time for purposes of evaluation.

E. Grantee must submit, upon request by the Board, a certified audit report at any time during the project or after completion of the project.

RULES

F. Grantee must submit a fiscal report, within 30 days of the completed project or program, to be completed by grantee or authorizing official on forms provided by the Board.

MSAB 8: Advisory committees.

A. The Board shall appoint advisory committees in each of the following areas of the arts to review applications in those areas:

1. architecture
2. dance
3. music
4. literature
5. theatre
6. visual arts
7. special projects
8. film/video
9. regional arts task force

B. The Board may appoint advisory committees in additional areas of the arts or discontinue the advisory committees in any of the above listed areas as it deems necessary.

C. The Board will appoint an advisory committee to review applications for subsidy grants.

D. Members of each advisory committee shall be individuals with special expertise in that particular area of the arts. Committee members will be selected by the Board from among practitioners, administrators, educators, volunteer directors of arts organizations, trustees of arts organizations and consumers of arts forms.

E. Appointments to advisory committees shall be made by majority vote of the Board. Members shall serve at the pleasure of the Board for three year terms. One-third of the terms of the members of each committee shall expire each year.

F. Sixty days prior to expiration of terms of advisory committee members, the Board will publish and post

notice of such openings. Nominations will be actively solicited and accepted by the Board. Nominations should be in writing and should include all pertinent information including nominees' qualifications and experience in the arts generally and in the particular area of the arts of the advisory committee on which the nominee will serve.

G. Advisory committees will, insofar as reasonably possible, be geographically balanced.

H. The Board and advisory committees, in reviewing applications, will consider the following factors generally as well as specific factors or conditions set by guidelines:

1. merit and quality of project generally. Of necessity this must be a subjective recommendation by committee members.

2. technical skills of applicant or ability of applicant to retain individual with the necessary technical skills.

3. if matching funds are required of an applicant, whether applicant has obtained those funds from local community or region. Support from local community or region is highly desirable.

4. demand or need for project. Applicants may include market studies, surveys, endorsements, etc.

I. Members of the advisory committees [[will]] shall be [[reimbursed]] compensated for [[travel]] expenses incurred to attend advisory committee meetings as [[per state reimbursement policy.]] provided in Minn. Stat. § 5.059, subd. 3, except that they shall not be eligible for the per diem.

Department of Public Safety

The rules published at State Register Vol. 1, No. 30, p. 1137 January 31, 1977 (1 SR 1137), are adopted and are identical in every respect to their proposed form, with the following amendments:

Chapter Four: Personalized Plates: Applications, Issuance, Transfer and Refunds

MoVeh 58 Assignment of plates.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

RULES

A. Personalized plates are assigned by the Division to an owner for the exclusive use of the passenger vehicle described in the application.

B. The personalized plates may be transferred to another vehicle owned by the applicant upon written notification of the registrar and:

1. payment of the prescribed fee as provided by Minn. Stat. § 168.12, subd. 2a;

2. registration of the vehicle in Minnesota; and

3. surrender (if any) of the existing Minnesota registration plates assigned to the vehicle.

C. If an owner sells a vehicle to which personalized plates have been assigned and elects to transfer the personalized plates with the vehicle, the owner shall automatically assign to the new owner the right to reserve that combination of characters and the right to any refund of the personalized plate fees.

D. If an owner sells a vehicle to which personalized plates have been assigned and elects to retain the personalized plates, it shall be the responsibility of the owner or his agent to make application for [[to obtain]] regular passenger car plates before the vehicle is sold. However, the owner would not need to obtain regular passenger car plates before the vehicle is sold in the following situations:

1. Vehicle sold to a junk yard, scrap yard, insurance company or salvage pool because the vehicle was severely damaged due to accident, fire, submission in water, or by natural causes such as wind or lightning.

2. Vehicle sold for junk or salvage because of the need for extensive mechanical repair.

3. Vehicle sold to an out of state buyer and plates will be secured in buyer's home state.

4. Vehicle sold to a buyer who holds personalized plates, amateur radio plates or citizen band plates for his/her own use.

E. The applicant must surrender any valid license plates assigned to the vehicle on which the personalized plates will be displayed at such time he or she is issued personalized plates.

Department of Public Welfare

Determination of Welfare Per Diem Rates for Providers of Residential Services for the Mentally Retarded

The rules published in State Register Vol. 1, No. 26, pages 1002-1013, January 5, 1977 (1 SR 1000-1013), are adopted and are identical in every respect to their proposed form, with the following amendments:

DPW 52 B.4.b.(1) **Salaries and payroll-related costs for additional personnel depreciation and interest expense for physical plant improvements or other fixed assets and changes in licensed capacity insofar as these cost changes are incurred to meet minimum and immediate requirements imposed by federal, state, or local laws and regulations.**

DPW 52 B.4.b.(3)

Section B.4.c. in proposed rule has been changed to Section B.4.b.(3).

DPW 52 B.5.e. Effective date of resolved disputes. If the dispute is related to a change in the provider's rate, the amount in dispute will not be adjusted until final determination according to these appeal procedures is made. The total dollar amount due the provider or the [[county]] program resulting from the resolved disputes will be subject to the payment provision of B.2.c.

DPW 52 C.1.f.(2)(a) Immediate adjustment of the welfare rate, along with retroactive recovery [[by the county welfare board]] of funds incorrectly paid to the provider.

DPW 52 C.2.b. Cost allocation of top-management salaries and management fees. The allocated portion of compensation for the chairman of the board, directors, presidents, or other similarly titled individuals and other corporate charges or costs allocated to [[a ICF/MR]] facility must represent the cost of services actually rendered and be identified according to the type of service provided.

DPW 52 C.3.a.(3)

Section C.3.a.(d) in proposed rule has been changed to Section C.3.a.(3).

DPW 52 C.3.a.(2)

RULES

Reference to Section C.3.b.(10) in Section C.3.a.(2) in proposed rule has been changed to Section C.3.a.(10).

DPW 52 C.3.a.(4)

Reference to Section C.3.b.(10) in Section C.3.a.(4) in proposed rule has been changed to Section C.3.a.(10).

DPW 52 C.4.c. Allocation of costs for providers of care other than [[ICF/MR]] mentally retarded services or nursing homes. Reasonable cost allocations must be made for cost associated with care other than [[ICF/MR]] mentally retarded services or nursing home.

DPW 52 D.1.i.

General Provisions

For each full percentage point increase in the Consumers price index in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the month of October, 1974 and October, 1975, new series index (1967 = 100), the annual compensation limitation shall be increased by one per cent. The increase, if any, generated by this formula shall be affected on January 1, 1976. Similar calculations shall be made for each successive year using the October indices for two successive years with the increases beginning effective the following January.

DPW 52 D.2.c. Professional, technical, or business-related organizations. These costs are allowable if their function and purposes can be reasonably related to the development and operation of [[ICF/MR]] facilities and programs for the rendering of resident-care services.

DPW 52 D.2.e. Travel and automobile. These expenses are not an allowable expense unless they are related to activities of managing the [[ICF/MR]] facility.

DPW 52 D.3.a.(1) Cost. Historical cost of [[ICF/MR]]

facilities shall be the basis for calculating depreciation as an allowable cost, except as provided by D.3.a.(2).

DPW 52 D.3.a.(2) Change in ownership of facilities. In a case in which a change in ownership of [[a ICF/MR]] facility occurs, and the new owner's investment is greater than the old owner's investment, if a bonafide sale is established by the new owner, the basis for depreciation will be adjusted as follows:

DPW 52 D.3.a.(2)(a)(i) The portion of the purchase price properly allocable to depreciable [[ICF/MR]] facilities or

DPW 52 D.3.a.(2)(a)(ii) The appraised value of the depreciable [[ICF/MR]] facilities calculated under the reproduction-cost-depreciated method.

DPW 52 D.3.a.(6) Recapture of depreciation resulting from sale of facility. The sale of depreciable [[ICF/MR]] property, or substantial portion thereof, at a price in excess of the cost of the property as reduced by accumulated depreciation used for purposes of computing allowable costs was greater than the actual economic depreciation.

DPW 52 D.3.b.(1) The total basis of depreciable [[ICF/MR]] facility assets shall not exceed an average of \$14,820 per bed for licensed beds built or purchased after January 1, 1974. The Commissioner may waive this limitation if the facility is deemed to be necessary and no alternative comparable facility is available. This limitation will be adjusted annually beginning January 1, 1976 according to a construction index as determined by the Commissioner.

DPW 52 D.3.g. Non-Depreciable assets. [[ICF/MR]] Facility assets that are not depreciable include but are not restricted to:

DPW 52 D.5.a.(1)(a)

Reference to Section D.4.b.(A) in Section D.5.a.(1)(a) in proposed rule has been changed to Section D.5.b.(1)(a).

PROPOSED RULES

Board of Cosmetology Rules of the Minnesota State Board of Cosmetology

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Hearing Room at 500 Metro Square Building, Seventh and Robert Streets, St.

Paul, Minnesota 55101 on August 16, 1977 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Hearing Examiner, Peter Erickson, either before the hearing or within five days after the close of the hearing, or for a longer

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period not to exceed 20 days if ordered by the hearing examiner.

The proposed rules, if adopted, would amend the rules of the Minnesota State Board of Cosmetology as follows: (1) make numerous changes in the titling of rules; (2) make changes in the requirements for beauty culture schools; (3) adopt a schedule of fees for all licenses; (4) make changes in the requirements for examinations and licenses; (5) make changes in the sanitation requirements for licensees; (6) delete MSBC 64 relating to minimum prices; (7) make changes in the unfair trade practices rule. Copies of the proposed rules are now available and one free copy may be obtained by writing to the State Board of Cosmetology, 5th Floor, Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 155.06, subd. 2 (1976). A "statement of need" explaining why the Board feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying.

Certificate of Board's Authorizing Resolution

I, do hereby certify that I am secretary of the State Board of Cosmetology, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Cosmetology duly and properly called and held on the 20th day of June 1977; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that Rilla Wright, Executive Secretary, of the State Board of Cosmetology, be and she hereby is granted the authority and directed to call a hearing for the purpose of amending the Board's existing rules as signing an order for hearing and notice of hearing." IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of June 1977.

Rilla Wright,
Executive Secretary
State Board of Cosmetology

John W. Showalter
Chairman
State Board of Cosmetology

Rules as Proposed

Chapter One MSBC 1-19: Approved Beauty Culture

MSBC 1 Remains unchanged.

MSBC 2 Sanitation. In the conduct and operation of a hair-dressing and beauty culture school the following rules shall be complied with:

[(a)] **A.** All premises and contents thereof shall be maintained in a clean and sanitary condition.

[(b)] **B.** Hair brushes, combs and any and all instruments used must be cleaned and sterilized after using on each person, **and kept in a sterilized closed container.**

[(c)] **C.** At least six combs and [three] **six** brushes are required for each student in attendance.

[(d)] **D.** Each school must have at least one covered wet sterilizer of a size to completely immerse objects being sterilized; and at least one dry sterilizer to store sterilized equipment until used.

[(e)] **E.** Any recognized germicide may be used in a wet sterilizer such germicide to be used according to the manufacturer's directions. Germicide fumigant or an ultra violet ray germicidal tube must be used in the dry sterilizer.

[(f)] **F.** A freshly laundered towel, or a paper neck strip, shall be placed around the neck of the person to prevent the protective covering from touching the skin.

[(g)] **G.** All receptacles containing solutions, creams, powder, **brushes, combs,** or other supplies used in a school, shall be capped or covered when not in use.

[(h)] **H.** Wave set, or waving lotion, must be dispensed from shakers, or other closed necked bottles.

[(i)] **I.** Creams and semi-solid substances must be removed from their containers with a sterile spatula. Powder must be dispensed from a shaker and applied with sterile cotton. [All lotions must be applied with sterile cotton.]

[(j)] **J.** Each student must wash his hands with soap and hot water before rendering any service. Fingernails must be kept clean and short as practicable.

[(k)] **K.** **All** [male and female] students must wear clean washable uniforms. **All students shall comply with a uniform dress code adopted by the school. Each school shall adopt a uniform dress code.**

[(l)] **L.** Freshly laundered linen must be used for each person rendered service.

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[(m)] **M.** Covered containers must be provided for soiled linen. All soiled linen must be placed in container after use.

[(n)] **N.** All clean linen must be stored in a clean closed cabinet.

[(o)] **O.** Adequate toilet facilities shall be provided and kept in a clean sanitary manner. When both sexes are enrolled in a school, separate toilet facilities shall be provided for both men and women.

[(p)] **P.** No student will be permitted to attend school or work on a customer while afflicted with any contagious or infectious disease.

[(q)] **Q.** All cotton and hair nets to be used in a school shall be kept in separate covered containers. Cotton to be used only once and then discarded.

[(r)] **R.** Waste materials shall be kept in suitable receptacles; obsolete and unnecessary articles of equipment shall not be permitted to accumulate on the school premises.

[(s)] **S.** [Rollers The using of wire mesh rollers with bristle and brush type inserts used in dressing and styling of the hair is prohibited in beauty schools and beauty salon services in the State of Minnesota.] **All rollers shall be kept in containers in a clean and sanitary manner.**

Justification. It is very difficult to keep them in a sanitary condition. Unless you keep them in a sanitary condition, the accumulation of hair, dandruff, lint, dust, and dirt will lead to the spreading of germs, disease, lice, etc. It has been our experience that the schools and salons will not do the necessary work to keep them in a sanitary condition.

MSBC 3 Plan of operation.

[(a)] **A.** Listed below are the points which are to be covered in a plan of operation:

- (1) Floor plan.
- (2) Complete statement of facilities and accommodations.
- (3) Maximum student enrollment.
- (4) Daily and weekly class schedule.
- (5) Daily and weekly [class] business hours of school.

(6) [Number of hours] **A minimum of 240 hours of preclinic training prior to practical work on floor.**

(7) Price list of charges to be made to the public for all student work.

(8) Student school rules.

(9) Class divisions schedule accordingly.

(10) How student records are kept (procedure).

(11) Students recruiting plan.

(12) Other details of operation not included in above.

[(b)] **B.** No plan of operation of a beauty culture school shall be changed without first notifying the State Board in writing of such contemplated change. The use of any plan or operation unsatisfactory to the State Board for any substantial reason shall be grounds for revocation or suspension of the school's Certificate of Approval.

MSBC 4 Instructors.

[(a)] **A.** Persons who desire to instruct in approved schools of beauty culture will be registered only after their competency and qualifications have been determined by the State Board.

[(b)] **B.** The teaching schedule for all instructors in beauty schools must be filed with the State Board. Every instructor shall devote the entire time for which he is scheduled to teaching and shall not practice beauty culture for compensation during these hours. Any practice by an instructor with the public shall be during hours not scheduled in school and must be done in a registered beauty salon separate from the beauty school.

C. An attendance report for each instructor of each school of cosmetology must be received by the department no later than the tenth working day after the end of each month the school is open for instruction. The instructor attendance report, which shall be signed by the instructor and the owner of the school of cosmetology or his designated representative, shall be submitted to the department on forms furnished by the department.

D. Senior instructors shall comply with a uniform dress code.

Justification. This will set an example of professionalism for the students.

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E. When a change is made in the staff of instructors, written notice must be sent to the Board office within five days.

F. Senior instructors shall be required to attend continuing professional education courses as directed by the Board. The Board shall set requirements for renewal of licenses designed to promote the continuing professional competence of licensees. These requirements of the continuing professional education or training shall be designed solely to improve professional skills and shall not exceed fifteen hours per year. All requirements promulgated by the Board shall be effective commencing January 1, 1978 or at a later date as the Board shall determine.

Justification. This will enable the instructor to devote his full time to teaching cosmetology.

MSBC 5 Enrollment.

[(a)] **A.** Barbers cannot enroll in a beauty school for a short course. They must enroll for a full beauty course. If the schools take in barbers for short courses the State Board will be compelled to prefer charges against the school for operating contrary to the curriculum as laid down by the Board.

[(b)] **B.** Student registration cards should be mailed to the State Board office on or before the receipt of their first month's record sheet. Student hours will not be recognized until such time as the registration card is received in the State Board office.

[(c)] **C.** Students changing from one school to another. Before registering a student who has had part training in another school, said student must bring a sworn affidavit as to the hours spent in training in a former school, giving the name of the school and location of same, one copy of affidavit to be immediately sent to the Secretary-Treasurer of the State Board and one copy to be put on file at the school, before said school is permitted to enroll the student.

MSBC 6 Records.

[(a)] **A.** All schools are to keep their record of student hours in the manner prescribed by the State Board.

[(b)] **B.** The schools will be held fully responsible for the completeness, accuracy, and mailing or delivery to the State Board of each month's student daily record sheets. Such record sheets shall be in the State Board office not later than the 10th day of the succeeding month.

[(c)] **C.** All schools shall maintain complete, accurate, and detailed records of all financial transactions showing the amount and source of all income and a record of all dis-

bursements. Such records shall be available for inspection by the State Board during the business hours of the school.

[(d)] **D.** Any school maintaining a professional shop shall be required to make available all school and shop records for inspection by the State Board.

MSBC 7 General.

[(a)] **A.** Students should be given sufficient supplies so that they may properly do their work on patrons.

[(b)] **B.** School equipment should be modern and in good condition and of sufficient quantity so as to meet the needs of students. All equipment should be kept clean.

[(c)] **C.** Students are not to take their kit of tools home to use to practice hairdressing outside of school.

[(d)] **D.** A business telephone, if installed in a professional department of a beauty school must be a separate telephone and not merely an extension of a telephone of the school.

[(e)] **E.** Any individual, firm or corporation who has been issued a Certificate of Approval to operate a beauty culture school shall open and commence the operation of such school within three months from the date of such Certificate of Approval, and failure to so comply shall revoke and cancel such Certificate of Approval.

[(f)] **F.** No schools shall engage in false or misleading advertising.

[(g)] **G.** Schools: A school of cosmetology shall not operate a clinic until the school has been licensed and operating for at least ninety days.

Justification. This permits enough time for the student to be properly trained in services of cosmetology before working in the school clinic on the public.

[(h)] **H.** All approved schools of cosmetology must provide a minimum of approximately 25 sq. feet of **work area** for each student in attendance. **This footage shall not include restroom facilities, storage area or office space.**

Justification. This would provide adequate space for each student to perform the services required during their training. (This is based on actual shop operations)

[(i)] **I.** Each approved school is required to be identified as either a school of cosmetology, beauty school, beauty academy, beauty training center, or any designation whereby the public may be able to distinguish it from a beauty salon. Each approved school is required to have a sign posted in a conspicuous place in the reception area

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and/or clinic areas which reads as follows: "Beauty School — All work performed by student." Such sign shall be in bold face lettering with the lettering not less than 2½" in height.

Justification. This is to distinguish between Beauty Schools and Beauty Salons for the public's information. The sign "Beauty School — All worked performed by student" is so the public will know they are not receiving professional work.

[(j)] **J.** Schools of cosmetology are prohibited from making false or deceptive promises to students as an inducement to enrollment.

Justification. To prevent fraud in inducing students to enroll in beauty schools.

K. The Board shall be given six weeks written notice of any change of location.

MSBC 8 Violations.

Violation of any rules or regulations of the State Board shall constitute cause for revocation or suspension of the school's Certificate of Approval.

MSBC 9-19 Reserved for future expansion.

Chapter two MSBC 20-39 Examinations and Licenses.

MSBC 20

[(a)] **A.** Place. Examination to be given in the office of the State Board.

[(b)] **B.** Fee. The examination fee for operators, manicurists and senior instructors shall cover the cost of the examination.

MSBC 21 Fee — License. [The examination fee for operators and manicurists covers the cost of licenses for the year in which the examination is given and fee paid.]

A. Applications for examination

1. Application fees for examination to qualify as an operator, manicurist and senior instructor, shall cover the cost of the examination and are required each time the applicant requests to be scheduled for examination, unless in the opinion of the Board, failure to appear is due to circumstances which justify relief from such requirement; provided, however, that an application

which is still pending six months after the date of its receipt by the Board shall be void.

2. The fee for examination to qualify as an operator or a manicurist shall be twenty-one (\$21) dollars. The fee for examination to qualify as a senior instructor shall be twenty-five (\$25) dollars.

3. The fee for retaking all of the above examinations shall be the same as the initial fee. The fee for retaking the written portion of the operator or the manicurist examination shall be seven and 50/100 (\$7.50) dollars, for the written portion of the senior instructor examination the fee shall be ten (\$10) dollars. The fee for retaking the practical portion of the above examinations shall be seventeen and 50/100 (\$17.50) dollars.

(b) **B.** Licenses.

In addition to all other fees for examination as provided in these Rules, the following schedule of fees shall be applicable:

1. for the initial application to establish a hair dressing and beauty culture school, or an application for change of ownership, the fee shall be two hundred fifty (\$250) dollars;

2. for the annual licensing of a school in hair dressing and beauty culture, the fee shall be two hundred fifty (\$250) dollars;

3. for the initial application to operate a beauty shop, the fee shall be twenty-five (\$25) dollars.

4. for the annual licensing of the beauty shop, the fee shall be fifteen (\$15) dollars.

5. for the initial license and each annual renewal of an operator's license the fee shall be nine (\$9) dollars.

6. for the initial license and each annual renewal of a manicurist's license, the fee shall be nine (\$9) dollars.

7. for the initial license and each annual renewal of a Manager/Operator's license, the fee shall be nine (\$9) dollars.

8. for the initial license and each annual renewal of a Junior Instructor's license, the fee shall be nine (\$9) dollars.

9. for the initial license and each annual renewal of

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a Senior Instructor's license, the fee shall be nine (\$9) dollars.

10. for the issuance of a duplicate copy of any of the above licenses, the fee shall be five (\$5) dollars.

11. for the issuance of a Certificate of Identification, the fee shall be nine (\$9) dollars.

12. as an assessment for the payment of expenses relating to the code, the fee shall be one (\$1) dollar.

13. for the issuance of licenses by comity under the provisions of Minn. Statutes Section 155.14, the fee shall be fifteen (\$15) dollars.

14. as a penalty for failure to renew any of the above licenses on or before the deadline date for each license, the penalty shall be two (\$2) dollars.

(c) C. In the event that an applicant fails to comply with the requirements for licensing as a senior instructor, the applicant shall be allowed to apply for a manager/operator's license in the same manner as if he held a current manager/operator's license. In such case, however, the applicant who applies for a manager/operator's license in such manner shall be required to apply for said license within 30 days immediately following the failure to comply with the requirements to renew a senior instructor's license.

MSBC 22 Completion time.

[(a)] A. In the conduct of a written examination a definite time will be set in which the examination is to be written.

[(b)] B. Each applicant [shall] will complete [her] the examination in one day.

MSBC 23 Application date. The cut off date to accept [to] applicants shall be the [Friday] Wednesday before the examination starts.

MSBC 24 Models. Every student taking the State Board examination will bring their own model, who shall be at least sixteen (16) years of age.

Justification. This will insure that models used will not inhibit an accurate or fair examination of the applicant's abilities.

MSBC 25 Grading.

[(a)] A. The passing grade for the practical examination will be 75% of the perfect score.

[(b)] B. The following are alphabetical grades for the numerical percentage grouping:

A	100-95
B	95-90
C	90-80
D	80-75
F	74.9

[(c)] C. Theory marking changes from curve to percentage. (75%)

MSBC 26 Out of state students.

[(a)] A. Out of state students making application for the examination, shall meet the same requirements as Minnesota applicants [and shall be eligible for temporary licenses.]

[(b)] B. All applications for examination from transferred students whether in or out of state, will not be accepted unless accompanied by the affidavit of schools for transferred hours form.

[(c)] C. All foreign students, regardless of credentials, must be examined.

[(d)] D. An applicant who cannot read or write the English language sufficiently to write the written examination may be exempt from the written examination and in its place be subjected to an oral one. Before such a person is admitted to such an examination, the applicant must appear before the State Board for questioning to verify to the satisfaction of the State Board that said applicant has received in the country from which he comes, a [an eighth] tenth grade school education or equivalent thereof, as required under our law and that he cannot read or write the English language.

MSBC 27 Failing exam.

[(a)] A. Any applicant failing to pass the State Board examination may review the same with any member of the State Board. No such examination will be reviewed with anyone but the applicant.

[(b)] B. No repeater examinations to be held. Applicants who fail are to take the next monthly examination.

[(c)] C. Delinquent operators or out of state applicants who [failed] fail the State Board examination for an operator's license [will] may [not] be required to attend a beauty culture school for further training before taking another examination.

MSBC 28 Reciprocity. In addition to the requirement of M.S. 155.14 an applicant, applying for a license through reciprocity must also comply with the following requirements:

PROPOSED RULES

[(a)] **A.** Current license from another state or country.

[(b)] **B.** If the state, territory, or foreign country does not issue a license, **the applicant must show** documentary evidence and proof of having practiced for a period of two years, **one year of which must be within the two years immediately prior to date** of such application.

MSBC 29 Delinquent manager-operator.

A delinquent manager-operator, after being reinstated may secure a manager-operator license by filing a request for it, signed before a Notary Public and paying the regular fee. They need not secure the signatures of their manager-operators as their records are on file in the State Board office.

[MSBC 30 Photostat Licenses. All photostatic copies of licenses desired by persons wishing to use the same in place of their original Minnesota license, must have a self photo and the Minnesota State Board of Hairdressing and Beauty Culture Examiners seal attached to the copy before it will be considered valid by this Board.]

Duplicates for lost or destroyed licenses shall be processed in the same manner as the original license for the prescribed fee.

MSBC 31-39 (Reserved for future use)

Chapter Three MSBC 40-59 Beauty shops

MSBC 40

[(a)] **A.** Before opening a new beauty shop, notice must be sent to the State Board office.

[(b)] **B.** All beauty shops must be inspected before registration is granted.

[(c)] **C.** No shop is permitted to operate without proper registration.

[(d)] **D.** Application for shop registration (form furnished by the State Board) must be filled in by the shop owner/owners, all signatures notarized, and returned to the State Board office with the [\$15.00] **prescribed** fee.

[(e)] **E.** In the event of the transfer of a shop from one owner to another the new owner shall apply for registration in the same manner as if no registration of such shop had existed.

[(f)] **F.** A change of ownership or location requires new registration.

[(g)] **G.** New shops or change of location of a shop must submit a floor plan or shop layout with the application[, one month or] six weeks prior to the opening date so the shop can be inspected and approved before the shop registration is issued.

[(h)] **H.** The registration certificate is not transferable. It is void and must be returned to the State Board office when a change has occurred.

[(i)] **I.** Rented boothspaces in a beauty shop. Persons who rent this space as a booth in a beauty shop, must register same in their own name, pay the [fee of \$15.00] **prescribed fee** and be responsible for the booth and hold a manager-operator license.

[(j)] **J.** Shop registration must be renewed annually on or before June 30th of each year.

[(k)] **Wigs:** A wig studio must be licensed as a beauty shop. The dressing of wigs is the practice of hairdressing, therefore, a person must be a licensed cosmetologist to dress and arrange wigs in a licensed registered salon.

Justification. We are of the opinion that in order to properly fit, measure for, and style wigs, direct contact with the individual is involved. It necessitates combing, brushing, and arranging the person's hair to get the proper measurement and fitting. This can only be done by a licensed person in a properly registered salon. We feel this part of a beauty service and our law, Section 155.08, Hairdressing and Beauty Culture defines this.]

K. A beauty shop and a barber shop may be operated in the same physical area if they are physically separated, the beauty shop area must be properly identified by a prominently displayed sign stating "beauty shop" with letters at least two inches high and the beauty shop area must have a minimum of 120 square feet of area.

MSBC 41 General operation.

[(a)] **A.** Every shop must have a manager-operator in charge at all times.

[(b)] **B.** It is the responsibility of the manager-operator in charge to see that the State Board rules are complied with.

[(c)] **C.** Shop owner or manager-operator in charge are responsible for the following:

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(1) All employees licenses to be posted in area in which the operator works.

(2) All employees have their picture attached to their current license.

(3) Hold all employees responsible for their own sanitation and sterilization.

[(d)] **D.** Upon written request to the State Board a shop will be given permission to operate without a manager-operator in charge for a period of twelve days. If an extension is needed it may be granted at the discretion of the State Board.

[(e)] **E.** Licenses of manager-operators or operators may be revoked or suspended for permitting an unlicensed person to work in the shop.

[(f)] **F.** A picture of each operator must be attached to the license and posted in the individual's work area for proper identification.

[(g)] **G.** Certification of Identification cards shall be in the possession of the shop owner or manager at all times except when the work is actually being done outside of the shop. When operator is no longer employed in the shop the owner or manager-operator must return the card to the State Board office. **The prescribed fee must be paid before a Certificate of Identification card can be issued.**

[(h)] **H.** Manager-Operator, operator and manicurists licenses expire on December 31st of each year. [Notice will be sent to renew, except to manicurists.]

[(i)] **I.** A beauty shop shall not be used for residential purposes.

[(j)] **J.** Additional requirements for a beauty shop in the home:

(1) Shop must have a private entrance.

(2) Shop must have a complete and permanent partition between shop and residential section of house.

(3) The shop is not to be used as a place of residence at any time.

(4) Doors leading from the shop into the living quarters must be kept closed and cannot be left open for heating and ventilation purposes.

(5) The shop to be set up in a room no smaller than 10' x 12' for one operator.

(6) Laundry tubs are not to be used in place of a conventional shampoo bowl.

[(k)] **K.** Opening a beauty shop. The location of such hairdressing and beauty culture operation shall comply with local zoning ordinances.

MSBC 42 Sanitation.

[(a)] **A.** All operators will be held responsible for the sanitary condition of their work area.

[(b)] **B.** All operators must present a professional appearance at all times. [Female operators shall wear clean washable uniforms. Male operators shall wear clean washable coat or washable shirt.] **All operators shall wear clean washable wearing apparel which shall satisfy reasonable standards concerning sanitation.**

[(c)] **C.** Each beauty shop must include in its equipment a method of sterilization to completely sterilize all combs, brushes, rollers, tools and equipment used in the beauty shop and keep them in a dry sterilizer to insure sterilization.

[(d)] **D.** There must be sufficient clean linen on hand at all times, kept clean and free from dust in a closed cabinet.

[(e)] **E.** Linen shall not be used more than once before laundering.

[(f)] **F.** Soiled linen must be put in a covered container.

[(g)] **G.** There must be at least [six] **twelve** combs and **twelve** brushes per operator.

[(h)] **H.** Hair brushes and combs must be cleaned and sterilized after each using.

[(i)] **I.** Wave set lotion must be dispensed from a suitable container [that will not admit a comb.]

[(j)] **J.** Powder must be dispensed from a shaker.

[(k)] **K.** Creams and other semi-solid substances must be kept in closed containers and removed for use with a clean spatula that does not come in contact with the skin of the patron.

[(l)] **L.** All cotton to be used in a shop shall be kept in a covered container, or in its original package.

[(m)] **M.** Basins, bowls and shampoo boards must be thoroughly cleaned immediately after each service.

[(n)] **N.** No article of any description shall be stored under shampoo bowls, so as to impair the sanitary conditions of the shop.

[(o)] **O.** Unwashable furniture must be covered with clean, washable slip covers.

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[(p)] **P.** All furniture and equipment in a shop must be washable. Where the furniture is not washable then washable slip covers must be provided for the furniture.

[(q)] **Q.** A shop must have good ventilation. Where no windows are available for ventilation there must be mechanical means for proper ventilation.

[(r)] **R.** [A wool rug may be used in a beauty shop provided a strip of linoleum, ample in length and width, is used under desserette, chair, and completely covers space in which operator works.] **Floor surfaces shall be maintained in a sanitary manner at all times.**

Chapter Four MSBC 60-79 Code of Fair Trade for the Hairdressing and Beauty Culture Trade of Minnesota.

MSBC 60 Declaration of policy. To effectuate the purposes and policy of the laws of 1937, Chapter 235, the following provisions are established as a Code of Fair Competition for the hairdressing and beauty culture trade for the four Trade areas of the State of Minnesota, which said provisions shall be the standards of fair competition and trade practices throughout said trade areas.

MSBC 61 Trade areas. Shall include all areas previously and presently established in the State of Minnesota and which geographically comprise all cities and villages within the Constitutional limits of the State.

MSBC 62 Minimum Rate of pay.

[(a)] **A.** The provisions of the appropriate minimum wage orders of the Department of Labor and Industry of the State of Minnesota shall govern the wages and hours worked in the hairdressing and beauty culture trade for the trade areas above described. Employees shall in no case be paid at a rate less than that prescribed in the appropriate minimum wage orders lawfully promulgated by the Department of Labor and Industry of the State of Minnesota and which applies during all times such employees are required to be on call upon the premises of the employer.

[(b)] **B.** Any hairdresser not employed by the week, and not paid the weekly rate, who is called for part-time employment shall be guaranteed at least three hours employment at not less than the minimum rate of pay.

MSBC 63 Definition of terms.

[(a)] **A.** The term "Hairdressing and Beauty Culture Trade" as referred to in this code shall include any person

or persons engaged in the practices for compensation or reward of any kind in arranging, dressing, curling, waving, cleansing, singeing, bleaching, coloring, or trimming as part of hairdressing or similar work upon the hair of any living person by any means, as well as the use of cosmetic preparations, antiseptics, lotions, tonics or creams aided with the hands or by mechanical or electrical apparatus or appliances used in massaging, cleansing, stimulating, manipulating, exercising or beautifying the scalp, face, arms, bust or upper part of the human body for the purposes of beautification, and the terms of this code shall affect persons owning and operating shops engaged in any or all of the practices above described.

[(b)] **B.** The term "Member of the Trade" shall mean and include any individual, partnership, association, corporation or any form of enterprise engaged in the trade or practice above referred to, either as employer, employee, owner or anyone authorized to act by any of these.

[(c)] **C.** The term "Employer" shall mean and include any person or firm employing or compensating any other person as a hairdresser or beauty culturist as above defined.

[(d)] **D.** The term "Employee" shall mean and include any person employed to do the work of such hairdresser or beauty culturist as above defined, however compensated.

[(e)] **E.** The term "Permanent Wave" shall mean a service which shall include a shampoo, the spacing, wrapping, processing of the hair, the giving of the fingerwave, the drying of the hair and the combing out thereof.

[(f)] **F.** The term "Beauty Shop" shall mean any room or building in which hairdressing and Beauty Culture Trade is carried on and which is licensed by the Minnesota State Board of Cosmetology.

[(g)] **G.** The term hair trimming or shaping of [women's] hair shall be a service separate and apart from other services, and charged for accordingly.

[MSBC 64 Minimum prices. All code violations must be reported to the Board.]

Haircut	2.00
Neck Clip	.50
Manicure	1.50
Shampoo and Finger Wave	2.00
Shampoo	1.00
Finger Wave	1.00
Permanent Wave	6.50 + Haircut

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PROPOSED RULES

Bleach Virgin	8.50 + Set
Bleach Retouch	6.50 + Set
Color Virgin	5.50 + Set
Color Retouch	5.00 + Set
Extra Toner	5.00
Thirty Day Rinses	2.00 + Shampoo and Set
Temporary Rinses	.50
Facial	3.50
Cleanup facial and Makeup	2.00
Lash and Brow Tint	2.50
Eyebrow Arch	1.00
Scalp Treatment	2.00 + Shampoo and Set
Instant Conditioner	1.00

MSBC 65 Unfair trade practices. The following acts or practices by members of the trade shall constitute unfair trade practices and are deemed unfair methods of competition, and persons engaging therein shall be in violation of the code.

[(a) Unfair trade practices: To pay or give away anything of value except as provided by law, exclusive of advertising tokens of no greater value than 50 cents.]

[(b) To sell or offer to sell any of the services enumerated below the prices established by this code.]

[(c) To give any combination of services as above enumerated at a price below or less than the sum total of such individual services as established by this code.]

[(d) To give rebates, refunds, commissions, or discounts to patrons in the form of money or otherwise, or to use partial payment of credit systems to enable patrons to obtain services at prices less than the minimum here prescribed; however, this provision shall not be construed to prohibit the legitimate extension of credit to patrons.]

[(e)] **A.** To substitute or misrepresent materials used in hairdressing or beauty culture.

[(f)] **B.** [To sell or offer for sale any service or product under representation that such service or product is being so sold or offered for sale at a reduced price, if the price at which it is so sold or offered for same is not in fact less in the amount stated, than the price regularly charged by the person for the service or product for sale.] **To represent that any product or service is for sale at a reduced price unless the represented price is actually less than the regular price.**

[(g)] **C.** To make untrue, deceptive, or false statements or representations through advertising of any kind or through any media.

[(h)] **D.** To evade the provisions of appropriate minimum wage orders by the subterfuge of:

(1) a commission arrangement,

(2) renting or leasing equipment or space to one or more employees,

(3) formation of a fictitious partnership with one or more employees.

MSBC 66 Assessments for expenses. All members of trade shall be subject to an assessment of \$1.00 on January 1st of every year. Any organization employing such member of the trade shall be responsible for collection of such assessment and shall be authorized to withhold same from the wage or salary of such member of the trade. Failure of such member of the trade to pay such assessment shall automatically incur suspension of his right to engage in the trade or practice and render him subject to all of the penalties imposed for violation of the code.

MSBC 67-79 Reserved for future use.

Board of Optometry Establishment of General Provisions, Definitions, and Fees, and to the Amendment or Repeal of Certain Existing Rules

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Board Room, Minnesota Health Department Building, 717 Delaware Street S.E., Minneapolis, Minnesota, on August 23, 1977, commencing at 9:00 A.M. and continuing until all interested persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8112, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would: (a) make certain housekeeping changes in existing Minn. Rules Opt 1, 5 and 6; (b) delete Opt 2; (c) require the maintenance of patient records for 7 years; (d) clarify the meaning of "study compliance year" under current Opt 4; (e) add a new rule relating to the rules' general purpose; (f) add a new rule devoted exclusively to definitions; and (g) establish in rule

PROPOSED RULES

form existing fees payable to the Board of Optometry, including an annual renewal fee increase to \$65.00 and a mechanism for possible future renewal fee adjustments. Copies of the proposed rules are now available and one free copy may be obtained by writing to:

Leo A. Meyer, O.D.
Executive Secretary
Board of Optometry
Room 342 — 717 Delaware Street S.E.
Minneapolis, Minnesota 55414

Additional copies will be available at the door on the date of the hearing.

The statutory authority of the State of Minnesota Board of Optometry to promulgate the proposed rules is contained in Minn. Stat. §§ 148.53, 214.06 subd. 1, and 214.12 (1976).

A "Statement of Need" explaining why the State of Minnesota Board of Optometry feels the proposed rules are necessary will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand and may be presented either orally or in writing at the public hearing or by mailing a statement to Leo A. Meyer, O.D., address as above. If the person submitting a statement cannot be present to read his statement at the time of the hearing, the statement will be entered into the record. For those wishing to submit written statements or exhibits, it is requested that at least three copies of such statement, exhibit or summary be furnished at the hearing. The record will remain open for receipt of briefs or other written material relative to the proposed rule for 20 days subsequent to the public hearing.

It is suggested that to save time and avoid duplication, those organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Also, please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he/she commences lobbying. Lobbying includes attempting to influence rule making by communicating with or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per

year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The chapter provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Leo A. Meyer, O.D.
Executive Secretary

Rules as Proposed

OPT 1 General provisions.

A. Purpose. These rules are intended to clarify and implement Minn. Stat. § 148.52 et seq. to the end that the provisions thereunder may be best effectuated and the public interest most effectively served.

B. Applicability. These rules shall be applicable to all persons licensed to practice optometry in the State of Minnesota pursuant to the provisions of Minn. Stat. § 148.52 et seq. and, in pertinent part, to those persons applying to the State of Minnesota Board of Optometry for a license to practice optometry in the State of Minnesota.

C. Pronouns. The use herein of masculine pronouns shall be deemed to include the feminine.

OPT 2 Definitions. The following terms and expressions when used in these rules shall have the meanings hereinafter stated:

A. "Act" means the Minnesota optometric practice act, Minn. Stat. § 148.52 et seq.

B. "Board" means the State of Minnesota Board of Optometry.

C. "Prescription" means a spectacle lens correction as formulated by a licensed optometrist.

OPT [1] 3 [ADVERTISING] PROFESSIONAL CONDUCT.

[The language of the law is plain. In order that there be no misunderstanding as to the Board's interpretation of the above section of the statute, § 148.57(3) the following pointed definitions are herewith set forth for guidance of all licensees in Minnesota:]

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[a. So-called "bait" advertising by optometrists of service or material furnished or to be furnished, is considered "bait" advertising and constitutes unprofessional conduct.]

[b. All price advertising by optometrists of service or material furnished or to be furnished, is considered "bait" advertising and constitutes unprofessional conduct.]

[c. Advertising of free examination, free consultation, or advice, or the use of any such similar "catch phrase" is considered "bait" advertising and constitutes unprofessional conduct.]

[d. The use of any statement of exaggeration, high-sounding technical terms, names and phrases in describing of materials or services is considered "bait" advertising and constitutes unprofessional conduct.]

[e. The advertising of unsupported claims of superior service or ability to undersell competitors is considered "bait" advertising and constitutes unprofessional conduct.]

[f. All optometrists in advertisements, announcements, signs, etc. must follow their name with the word OPTOMETRISTS or the initials O. D. or D. O. or D. O. S. To omit the word 'OPTOMETRIST' or the initials O. D. or D. O. or D. O. S. in connection with the use of the prefix Dr. is considered misleading and constitutes unprofessional conduct.]

A. When using the title "Doctor" or its abbreviation "Dr.," the abbreviation "O. D." should not be used as a suffix to the name. However, when using the title or abbreviation before the name, the name may be followed by the explanatory term "Optometrist".

[g.] **B.** For an optometrist to [use a hyphenated term connecting] **advertise** the practice of optometry with any business properly considered foreign to the subject of eyes and refraction, is considered misleading and constitutes unprofessional conduct.

[h.] **C.** Any optometrist employing or engaging for a salary, fee or commission any person, firm or corporation to steer, solicit, lure or entice any person to come to his office or branch office for optometric service, is considered as employing "cappers" or "steerers" to obtain business and constitutes unprofessional conduct.

[i. The use, for advertising purposes, by any one, of the name of a deceased optometrist who prior to his demise was licensed to practice optometry in this state, shall be prohibited. Provided, however, that in the event the practice of the deceased is transferred to a duly licensed optometrist, the transferee shall be permitted to identify himself as having acquired the practice of the deceased for a period of not more than two years after the demise. During said two year

period, in all advertisements or announcements by the transferee, the name of the deceased optometrist shall appear in letters no larger than the letters in the name of the transferee.]

D. In the event an optometric practice is transferred to a duly licensed optometrist, said transferee may, through professional cards, stationery, signs, or other permissible forms of announcements, identify himself as having acquired the practice, provided that no such announcement shall be used or displayed more than two years after the date of transfer. During said two year period the name or names of those from whom the practice was transferred shall not appear in letters larger than the letters used in the name of the transferee.

[OPT 2 RECORDS

An optometrist, upon each examination of a patient, shall maintain records of his procedures and findings relating to the detection of ocular pathology.]

OPT [3] 4 Records, minimum specifications.

A. In the absence of compelling reasons to the contrary, it shall be considered either grossly incompetent or unprofessional conduct, or both, for an optometrist, licensed to practice optometry in this State, to fail to keep a record of the following minimum procedure on all patients:

1. Case history.
2. Visual acuity without correction.
3. Ocular pathology.
4. Refractive findings, both far and near.
5. Binocular findings.
6. Prescription given, if any, with visual acuity attained.
7. Patient referral, if any.

B. Any and all patient records required at A, above, shall be maintained for at least seven years.

OPT [4] 5 Required continuing education.

A. All optometrists now or hereafter licensed in this state are and shall be required, as a prerequisite to license renewal, or attend annually courses totalling at least 12 clock hours of study of educational optometric programs as may be approved by the board under the provisions of this rule. In the event an optometrist becomes [inelligible] **ineligible** for license renewal for failure to comply with continuing

PROPOSED RULES

education requirements, he shall be suspended from further practice. The board shall reinstate any such suspended license upon receipt of satisfactory proof that such suspended licensee has made up the deficient hours of study.

[(a) Study compliance year.

Except as provided below, the optometric study compliance year shall extend from February 1 through January 31, during which period attendance at approved study sessions may be used as evidence of fulfillment of study requirements for the subsequent license renewal year beginning April 1 and expiring on March 31. Credit will be allowed only for the year in which the education course was actually attended. Example: Credit for 1976 must be obtained between February 1, 1975 and January 31, 1976 for license renewal on April 1, 1976. For the year 1975 however credit shall additionally be given for educational programs attended from January 1, 1974, so long as an educational program for which credit is requested is either specifically approved herein or has complied with the criteria as set forth in paragraph (c) herein. A licensee shall not be required to submit an educational program to the board for prior approval for those programs not specifically approved herein and which are attended between January 1, 1974 and March 15, 1974. No credit for such attendance shall be given, however unless the board determines that such educational program complied with the criteria as set forth in paragraph (c) herein.]

B. Study compliance year.

The optometric study compliance year shall extend from January 1 through December 31. Courses attended during that period will be credited to the current license renewal year. Credit for approved courses attended between January 1 and March 31 may be applied to either the current or subsequent license renewal year but not both. No credit for such attendance shall be given, however, unless the board determines that such educational program complied with the criteria as set forth in paragraph D herein.

[b.] C. Approved programs.

Educational programs which are approved as meeting the required standards (include the following) **are indicated below.** [() This approval is and shall be based on continued maintenance of high standards. ():] **Courses not eligible for credit shall be so identified by the program sponsor.**

1. Courses on subjects relative to optometry at any board approved school or college of optometry.

2. Education meetings of the North Central States Optometric Conference.

3. Educational meetings of the Minnesota Optometric Association.

4. Educational meetings of the American Optometric Association.

5. Educational meetings of the American Academy of Optometry.

6. Other educational programs approved by the board as meeting the criteria as set forth in paragraph [(c)] **D.** herein, after submission of a program, schedule, and outline to the board **executive** secretary not less than 45 days prior to the date of the program. The board may, upon application of any licensee and for good cause shown, waive the requirement for the submission of advance information and request for prior approval. Nothing herein shall permit the board to approve of an educational program which has not complied with the criteria as set forth in paragraph [(c)] **D.** herein.

7. The board reserves the right to determine the number of hours credit for any course or program under C. above.

[c] **D.** Criteria for judging and approving educational programs.

Board approval of continuing education programs will be determined on the following basis:

[(1). ()] Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.

[(2). ()] Whether or not the speakers, lecturers and others participating in the presentation of any such program are recognized by the board as being highly qualified in their field.

[(3). ()] Whether or not the proposed course, if it is to be conducted within the State of Minnesota, is open to all optometrists licensed in this State.

[(4). ()] Whether or not the tuition fee charged for courses conducted within the State of Minnesota is the same for non-members of the course sponsoring organization as it is for members. Any difference in tuition charged to non-members as opposed to members of the sponsoring organi-

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PROPOSED RULES

zation shall be reasonable and directly related to the sponsoring organization's expense in operating the course.

[(j5.d)] As a condition of approval of an education program hereunder, the board may require that the program director furnish it with satisfactory evidence of attendance of all Minnesota licensees.

6. Programs and or courses deemed by the board to be a sales promotion of a product or service may be denied approval of continuing education credit. Such programs and or courses may be presented without continuing education credit by the sponsor when so noted on the program.

[d] **E.** Notice of addition or deletion of approved programs.

The board may, after due consideration and by mailing written notice thereof to each licensed optometrist on or before January 1 of each year, either add [additional] **to or delete** programs [to] **from** the list of approved programs for the ensuing study compliance year. [one or more of the programs as set forth in paragraph (b) herein.]

[e] **F.** Proof of attendance.

Certificates of attendance of continuing education courses shall be submitted by the optometrist to the board **executive** secretary at the time he applies for renewal of his license and shall contain the following information:

1. The name of the sponsoring organization.
2. The name, signature, and address of the licensee.
3. The subject of the education topic.
4. Number of hours in attendance.
5. The date of the educational program.
6. Such other evidence of attendance as the board may deem necessary.

The use of the board certificate form is recommended for all educational programs approved by the board pursuant to section [(b) (6)] **D.** herein. Such forms shall be made available by the board **executive** secretary upon request.

[f] **G.** Limitation on credit to be given for certain courses.

Credit shall not be given for more than two hours attendance in courses of office management or administration.

[g] **H.** Exemptions from required attendance.

The following licensees shall be exempt from the requirements of this section:

[(j1.f)] Any licensee serving in the regular armed forces of the United States during any part of the 12 month [.] immediately preceding the annual license renewal date.

[(j2.d)] Those licensees as the board, in its discretion, determines were unable to attend sufficient hours of continuing education courses because of illness, incapacity, or other unavoidable circumstances.

[(j3.d)] Any licensee first licensed by examination or reciprocity within the 12 months immediately preceding the annual license renewal date.

[h] **I.** Board may require attendance of specified subjects.

The board may, by mailing written notice thereof to each licensed optometrist on or before January 1 of each year, require all optometrists to attend specified subjects of continuing education for credit toward the annual hourly requirement.

OPT [5] 6 Incorporating under the professional corporation act. One or more licensed optometrists may form a corporation under the Professional Corporation Act as stated in [Minnesota Statutes 1973, Chapter 319A] **Minn. Stat. § 319A.21.** With reference to the formation and maintenance of such professional optometric corporation, the following rules shall apply:

[a] **A.** No professional optometric corporation shall begin to render professional service in this state until it has filed with the board executive secretary a copy of its articles of incorporation.

[b] **B.** Either the abbreviation "O. D." or the word "Optometry" or "Optometric" shall appear in the corporate name. Where the word "Doctor" or its abbreviation is used as a prefix with the name of the optometrist, the abbreviation "O. D." shall not be used as a suffix.

[c] **C.** Where an optometrist is working as an employee of a professional optometric corporation, his name shall be [prominently displayed] **displayed prominently** at any establishment where such person is rendering professional services.

OPT [6] 7 Display and disclosure of name.

A. The name of the optometrist shall be [prominently displayed] **displayed prominently** at any office or establishment where such person examines eyes.

B. All receipts relating to payment for eye examinations

PROPOSED RULES

(and all prescriptions for correction furnished to the patient) shall indicate the name of the examining optometrist.

C. Spectacle prescriptions furnished to the patient shall be signed by the examining optometrist.

D. No licensed optometrist shall sign or cause to be signed a prescription for an ophthalmic lens without first making a personal examination of the eyes of the person for whom the prescription is made.

OPT 8 Fees.

A. General.

1. All fees required herein shall be submitted only by check or money order, made payable to the board.

2. No such fee or any portion of a fee paid or payable to the board is refundable.

B. License examination.

1. All applications for licensure by examination in this state shall be accompanied by a \$50.00 fee.

2. As provided at Minn. Stat. § 148.56, subd. 1, said fee and a completed application form shall be filed with the board at least two weeks prior to the date of the examination. However to facilitate processing, assure the availability of sufficient examination space, equipment and testing personnel, and provide the applicant with a reasonable opportunity to remedy any deficiencies in his application, it is recommended that the application form and fee be received by the board sixty (60) days before examination.

3. In the event the applicant fails to pass a part of the examination, upon application and the payment of an additional fee of \$35.00, he may retake the examination at the time for which the board next schedules such examinations.

C. License certificate issuance.

1. Each applicant who meets all applicable requirements for licensure under the Act and these rules shall be issued a license certificate by the board. The fee for this license certificate shall be \$12.00.

2. Upon proof of loss or damage of an original license certificate and payment of an additional \$12.00

fee, a replacement certificate may be issued by the board.

D. Individual annual license renewal.

1. On or before March 31 of each year, the board shall receive a license renewal fee from every licensed optometrist who desires to continue to be entitled to practice in this state. The amount of said fee to be received by the board not later than March 31, 1978, for licensure between April 1, 1978, and March 31, 1979, shall be \$65.00. Thereafter, subject to the approval of the State Commissioner of Finance under Minn. Stat. §§ 16A.128 and 214.06, subd. 1, the amount of said fee shall be as determined by the board, not to exceed 115% of the renewal fee for the immediately preceding licensure year.

2. At the time of paying the fee required herein, the optometrist shall inform the board of the address or addresses of the place or places where he conducts his practice. He shall also inform the board of any change in the address or addresses of his practice during the 12 month period within one month of the change.

3. As specified at Opt 5 hereof, submission to the board of satisfactory proof of compliance with continuing education requirements is and shall be a condition precedent to annual license renewal.

4. When an optometrist defaults in payment of the annual renewal fee as set forth at D1 above, the board, upon a hearing, may revoke his license; provided that the payment of such fee at or before the time of hearing, with such additional sum not exceeding \$25.00 as may be fixed by the board, shall excuse the default. In the event any such default remains unexcused at the time of hearing and a license is revoked for nonpayment of renewal fees, the board may, in its discretion, refuse to issue a new license to any person whose license has been so revoked until such time as that person repasses or, if he was previously licensed by reciprocity, passes the examinations and complies with all other requirements for initial licensure by examination in this state.

5. Practicing optometry without a renewed or current license shall have the same force, effect and potential legal consequences as practicing optometry without a license.

E. Reciprocity.

Any qualified person seeking licensure in this state by

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PROPOSED RULES

reciprocity shall, in accordance with Minn. Stat. § 148.57, subd. 2, file a completed and sworn application for such licensure with the board at least two weeks prior to the regular meeting at which the Board considers such applications. To assure sufficient time for processing, however, it is recommended that all such applications be received by the board sixty (60) days prior to the board's consideration thereof. A fee of \$100.00 shall accompany every application for licensure by reciprocity.

F. Professional corporations.

Pursuant to Minn. Stat. § 319A.21, every professional optometric corporation holding a certificate to do business in this state shall file annually with the board on or before January 1 a corporate report accompanied by a fee. Until otherwise provided by law, this fee shall be \$100.00 for filing the first of such reports and \$25.00 for filing each successive report.

Department of Personnel Proposed Temporary Rules Governing Labor Service, Leaves of Absence, Allocation and Re-Allocation of Positions, Layoffs, and Travel Reimbursements

Request for Public Comment

Notice is hereby given, pursuant to Minnesota Laws 1977, ch. 443, § 2, that the Minnesota Department of Personnel will adopt temporary rules pursuant to Laws of 1977, ch. 452, which will amend the existing rules on the labor services, leaves of absence, the allocation and re-allocation of positions, layoff, and travel reimbursement to bring them into conformance with collective bargaining agreements. These rules shall take effect on August 9, 1977, and remain in effect until February 8, 1978, or the adoption of permanent rules, whichever occurs first.

All interested persons may submit written comment or data on these rules to: Ron Olson, Minnesota Department of Personnel, 3rd Floor, Space Center Building, 444 Lafayette Blvd., St. Paul, MN 55101. Written statements submitted for consideration must be received by August 1, 1977.

Richard W. Session
Commissioner

Rules as Proposed

Persl 9 Labor service. Classes of positions involving unskilled labor, as designated by the Commissioner, shall comprise the labor service.

The Commissioner may at any time review the duties performed by any labor service employee. The appointing authority and the employee shall supply any information requested by the Commissioner in connection with such review. If the Commissioner thereafter determines that the duties performed are not properly those of a position in the labor service, the Commissioner shall take action deemed necessary to comply with the law and these rules.

Any personnel action affecting an employee or a position in the labor service shall be reported to the Commissioner by written notice upon such form as the Commissioner may prescribe.

A. Reports of appointment, termination, or interruption of employment in the labor service shall be effected as follows:

[Temporary appointments shall not exceed seven months in any one calendar year; and shall be reported on forms prescribed by the Commissioner.]

1. Employees in the labor service who have been employed for a total of [ten] six months in a period of twelve consecutive months shall be known as classified [civil service] **tenured** laborers and shall receive the same tenure rights and benefits given other classified employees of the state not in the labor service. The appointing authority's certificate that the employee has met these conditions will establish the employee's tenure rights. Such certification shall be in the manner and form prescribed by the Commissioner.

2. [An employee with classified civil service labor tenure] **A tenured laborer** as defined in the law shall be given written notice of disciplinary action and shall have rights in accordance with law (Minn. Stat. § 43.24).

B. Promotion from the labor service:

1. [Employees in the labor service] **Tenured laborers** shall be eligible to compete in promotional selection processes when they [have worked ten of twelve consecutive months preceding the promotional examination and] meet the requirements specified in the announcement.

Persl 18 Allocation of positions. When a new classified or unclassified position is to be established, [or] a vacant classified or unclassified position is to be filled, **or the duties and responsibilities of a classified or unclassified position are changed as a result of changes in the or-**

PROPOSED RULES

organizational structure of an agency or abrupt changes in the duties and responsibilities, the appointing authority shall notify the Commissioner in the prescribed manner, and the Commissioner shall allocate the position to the appropriate class in the classified service or in the unclassified service, where possible, to a comparable class.

The Commissioner, after making an allocation or comparison, shall notify the appointing authority of that action. The action shall become immediately effective, but the appointing authority may within ten days file with the Commissioner an application for reconsideration, together with any written evidence by way of affidavits, statements or exhibits which the appointing authority may desire to have considered. The Commissioner shall act promptly upon that application and shall notify the appointing authority of the final action.

Persl 19 Reallocation of positions. If, because of [the] changes **occurring over a period of time in the kind, responsibility or difficulty of work performed** in [the organizational structure of an agency, changes in the duties of the position, or for some other reason] a classified or unclassified position, it seems to be improperly allocated, or compared, the Commissioner shall, independently or upon request of an appointing authority or permanent employee, investigate the duties of the affected position. Following the investigation, the Commissioner may reallocate or compare the position to an appropriate class. In making a request for a review of a position, the appointing authority or permanent employee shall set forth specifically the changes that have occurred in the particular position which warrant the requested action **along with other documentation prescribed by the Commissioner**. The Commissioner shall notify the affected employee and the appointing authority of the final decision.

Persl 24 Work out of class. When an employee is expressly assigned to perform all the duties of a position allocated to a higher level classification that is temporarily unoccupied for reasons other than vacation or short periods of sick leave and such work exceeds 15 consecutive work days in duration, the employee shall be paid for [the duration] **all hours** of the assignment, at the minimum of the salary range for the higher class or receive a one-step increase, whichever is greater. Appointments to these assignments shall be made in accordance with Personnel Rules 81 through 91. If the assignment is to a position at an equal or lower level classification, the employee shall be paid at the employee's current rate of pay.

Persl 31 [(Deleted March 15, 1976)] **Pay upon reallocation. Except for reallocations resulting from a study of**

an agency or subdivision thereof initiated by the Department of Personnel or an appointing authority, if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence up to sixty calendar days prior to the incumbent employee's probationary appointment to that position. In no event shall such pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented.

Persl 39 Eligibility to compete.

A. Open competitive selection processes. Competitive selection processes shall, after public notice, be open to all applicants who meet the reasonable standards or requirements fixed by the Commissioner with regard to factors that relate to the ability of the candidates to perform with reasonable efficiency and effectiveness in the duties of the position. Persons with physical disabilities who, when demonstrated to the satisfaction of the Commissioner, could not be selected in the normal manner, shall be selected in such a manner that will fairly test their ability to perform the duties of the position.

In the case of an applicant who is blind, the department will provide the applicant with either a braille selection process, or the services of a reader chosen by the applicant with the approval of the department, or subject to the approval of the applicant, whichever means of screening is available to the department.

No applicant shall be rejected because the applicant lacks educational qualifications, unless such qualifications relate directly to the duties of the class for which the announcement is made, or where such educational requirements are established by federal agencies making grants-in-aid or otherwise contributing to state programs.

B. Promotional selection processes. Promotional selection processes shall be open to all permanent or probationary employees in the agency or other organization unit for which the selection process is being held who meet the requirements described in the announcements. All classified and unclassified state employees in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional.

[If the incumbent of the reallocated position has not participated in the selection process for which an unexpired list

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PROPOSED RULES

exists for the class to which the position has been allocated, the employee shall be permitted to complete the same or equivalent selection process. Where significant changes over a period of time have occurred in the kind, responsibility or difficulty of the work performed in a position, the Commissioner may certify only the name of the incumbent if:]

[(1) The changed classification is in the same occupational group as the initial classification of the position; and]

[(2) The operating agency submits a written request detailing the basis for the action; and]

[(3) The action leading to the change in the allocation of the position did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process, to a vacancy in a new position which had not been allocated to a class, or other action taken without regard for the appropriate selection process.]

[In any case, where the incumbent of a position which has been reallocated is ineligible to continue in that position in the new class and is not transferred, promoted, or demoted, the layoff provisions of the Personnel Law and Rules apply.]

C. Selection processes for incumbents of reallocated positions. The incumbent of a position which has been reallocated in accordance with Personnel Rule 19 shall be permitted to compete in the same or equivalent selection process as last given for the class to which the position has been reallocated, provided:

1. The incumbent did not participate in a written or competitive oral examination process for such a position less than six months previous to the date of reallocation;

2. The reallocation did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process or to a vacancy in a new position which had not been allocated to a class, or from other action taken without regard to the appropriate selection process.

If the incumbent examined in accord with the above successfully completes the examination process, notwithstanding the provisions of Persl 84, the Commissioner may certify only the name of the eligible incumbent, provided the position has been reallocated to another class in the same occupational category as the initial classification.

In certifying eligibles to a position reallocated to a class in a different occupational category than the initial

classification of the position the provisions of Rule 84 shall apply.

Where the incumbent of a position which has been reallocated has failed to qualify in the selection process and/or otherwise is ineligible to continue in the position in the new class, the employee must be removed from the position within 30 calendar days from the date of notification to the appointing authority of the incumbent's failure to qualify.

Where the incumbent is ineligible to continue in the position and is not transferred, promoted or demoted, the lay-off provisions of the Personnel Law and Rules apply.

Persl 61 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the Commissioner. The Commissioner shall consider the recommendation of the last appointing authority before approving applications of former employees and shall approve or disapprove each application considering the quality of service as evidenced by service reports submitted by the last appointing authority. Names shall be placed on the reemployment list based on the quality of service as indicated in the individual's performance appraisals. A person may remain on a reemployment list for up to three years and must return to state service within four years of separation.

The names of laid-off employees shall be placed on the reemployment list for those classes in which the employee possessed permanent or probationary status and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. Laid-off employees who wish to have their names placed on the reemployment list must notify the Department of Personnel within 3 years of date of layoff indicating those classes, locations and employment conditions they are willing to consider.

Persl 109 Layoff. The appointing authority may lay off an employee in the classified service by reason of abolition of the position, shortage of work or funds, or other reasons outside the employee's control which do not reflect discredit on the service of the employee.

Duties formerly performed by laid off employees may be assigned to other permanent employees who, in the opinion of the Commissioner, hold positions in an appropriate class.

A. Order of layoff. Layoff of probationary or permanent employees shall be made in inverse order of seniority by employment conditions in the class of work and agency or

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other organizational unit involved, provided, however, that for positions within a class requiring special licensure, certification or registration and for positions which consist of a formally recognized option within a class, seniority shall be applied within the area of specialization. Except as provided above, no probationary or permanent employee shall be laid off from any position while any provisional or temporary employee is continuing in a position of the same class in the agency or other organizational unit involved.

Where it is determined that two or more persons in the class in the agency or organizational unit in which layoff is being made have equal seniority, the order of layoff in such tie cases shall be in inverse order of the date of acquisition of permanent status in the class, except where otherwise provided in written contracts with bargaining representatives.

Where the determination of seniority as provided in this rule does not establish definite seniority differentials, the order of layoff shall be determined by the average of the last two service ratings, if there are two, or the last such rating if there is only one, and the employee with the lowest such average or rating shall be laid off first. If no service ratings are available, the order of layoff shall be determined by the appointing authority in such a manner as to insure the retention in the state service of those employees deemed most valuable, except where otherwise provided in written contracts with exclusive bargaining representatives.

B. Seniority. Seniority for purposes of layoff or recall from layoff shall be the length of service in a specific class in a specific agency or organizational unit. Leave without pay **and trainee appointments** except as provided elsewhere in [this] **these** rules, [trainee appointments except for permanent or probationary employees], **and** service with a different agency or organizational unit, shall not count toward seniority in the class, agency, or organizational unit in which the layoff is taking place.

Seniority of an employee in the class to which that employee is demoted shall be limited to service in the agency. Such seniority shall include the total time of the employee's prior seniority in the class from which the employee was demoted, as well as other classes which the Commissioner determines as being sufficiently similar to the class to which demotion occurs. Seniority shall begin on the date of original appointment and thereafter such seniority shall be increased each calendar day without interruption except:

1. Upon termination.

2. Upon interruption of service in the agency for any reason other than leave of absence or layoff.

3. Upon expiration of eligibility for reappointment from the layoff list.

In the case of employees in a trainee class or an employee working under a provisional appointment, seniority shall be credited back to the date of hire at the time the employee begins to serve a probationary period in the same or a related classification in the same department.

C. Limited interruption of employment. Any interruption in employment not in excess of 15 calendar days, because of adverse weather conditions, shortage of materials or equipment, or for other unexpected or unusual reasons, shall not be considered a layoff.

D. Layoff notice. The appointing authority shall notify the employee to be laid off at least 15 days before the effective date of such layoff in writing, and shall certify to the Commissioner the reasons for such layoff. In any case, when an appointing authority fails to certify before the effective date thereof that the layoff was for reasons not reflecting to the discredit of the employee, it shall be deemed a dismissal and shall be subject to the rules regarding dismissal.

In case of seasonal, intermittent, part time or other occasional appointment of employees with classified status, the appointing authority may indicate to the employee and the Commissioner at the time of the appointment the approximate date of termination of employment, and such notices shall be considered to meet the requirements of law. (Minn. Stat. § 43.23, Subd. 2).

E. Names of laid off employees to be placed on eligibility lists. The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed in order of seniority on the layoff list for the class and agency or other organizational unit from which the layoff took place. The affected employees shall have their names placed also on the reemployment list.

F. Organizational units. An appointing authority may propose subdivision of the agency into organizational units for the purpose of employment or layoff by submitting to the Commissioner a written plan for such subdivision, together with reasons therefor. The Commissioner shall consider such proposals and the needs of the state service, and may establish organizational units within agencies. Such

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organizational units may be established on the basis of geographic areas, function, class of employment, or funding when there are special Federal grants, and may be different for different classes of employment. The Commissioner shall notify the appointing authority of establishment of organizational units and such units shall thereafter be used for employment or layoff.

The appointing authority shall post a copy of such notice or shall notify affected employees of the establishment of such organizational units.

The Commissioner may cancel established organizational units upon notice to the appointing authority at any time the Commissioner deems such action to be in the best interest of the state service.

Persl 131 Holidays. Holidays will be observed as prescribed by the legislature. (Minn. Stat. § 645.44, Subd. 5)

This rule applies to all classified employees and, notwithstanding Persl Rule 4, all full-time unlimited unclassified employees in the executive branch of government, except [hourly] **non-tenured laborers, temporary employees, emergency employees** and project employees. Holiday leave provisions may be established by the appointing authority for employees not covered by this rule.

The following days are holidays and an alternate day off shall be granted for work done on these days, except where payment is allowed under the overtime provisions of Persl 130.

- New Year's Day January 1
[President's Birthdays]
- Washington's and
Lincoln's Birthday** Third Monday in February
- Memorial Day Last Monday in May
- Independence Day July 4
- Labor Day First Monday in September
- Columbus Day Second Monday in October
- Veterans Day November 11
- Thanksgiving Day Fourth Thursday in
November
- Christmas Day December 25

A. When New Year's Day, Independence Day, Veterans Day or Christmas Day fall on Sunday, the following day shall be considered the official holiday for employees. When these holidays fall on Saturday, the preceding day shall be considered the official holiday for employees. An employee, regardless of work schedule, shall receive the same number of holidays as an employee whose regular work week is Monday through Friday.

B. The appointing authority in those agencies which remain open to the public for performance of public business

may designate a sufficient number of employees to maintain the continuity of the agency's operations on such days.

C. Holidays which occur within the employee's vacation or sick leave period will not be charged to the employee's vacation or sick leave time.

D. Employees must be on the payroll on the work day immediately preceding and the work day immediately following a holiday to be eligible for such holiday.

For the purpose of determining eligibility for holiday pay, "on the payroll" shall mean those who are in pay status.

Hours that would have been worked during the pay period had there been no holiday	Holiday hours earned for each holiday in the pay period
0- 9	0
10-19	1
20-29	2
30-39	3
40-49	4
50-59	5
60-69	6
70-79	7
80	8

Intermittent employees shall receive a holiday if they work the day before and the day after a holiday. If such intermittent employee works on a holiday, that employee will be reimbursed for the holiday in addition to the pay for the time worked. This pay shall be in accordance with the above schedule. Seasonal employees are entitled to holidays as defined in this rule.

F. Employees who observe religious holidays on days which do not fall on a Sunday or a legal holiday shall be entitled to such days off to observe the religious holiday. Such days off to observe these religious holidays shall be taken without pay, or upon the election of the employee, may be charged against accumulated vacation leave. If the appointing authority can arrange to have the employee work an equivalent number of hours at another time during the fiscal year to compensate for the days lost for observance of religious holidays, these holidays may be taken against such hours actually worked.

Persl 135 Vacation leave. This rule applies to all classified state employees in the executive branch except for [hourly] **non-tenured laborers, emergency employees, project employees** or temporary appointment employees and also applies to all full-time unlimited unclassified employees in the executive branch except department heads, deputies and those listed in Persl Rule 4. Annual leave provisions may be established by the appointing authority for employees not covered by this rule.

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Each eligible employee shall earn vacation with pay according to the rate listed below.

Hours of Vacation Accrued during each Payroll Period of Continuous Service

Number of Hours Worked During Pay Period	0 thru 5 years	After 5 thru 8 years	After 8 thru 18 years	After 18 thru 25 years	Over 25 years
0- 9	0	0	0	0	0
10-19	$\frac{3}{4}$	1	$1\frac{1}{4}$	$1\frac{1}{2}$	$1\frac{1}{2}$
20-29	1	$1\frac{1}{4}$	$1\frac{3}{4}$	2	2
30-39	$1\frac{1}{2}$	2	$2\frac{3}{4}$	3	3
40-49	2	$2\frac{1}{2}$	$3\frac{1}{2}$	$3\frac{3}{4}$	4
50-59	$2\frac{1}{2}$	$3\frac{1}{4}$	$4\frac{1}{2}$	$4\frac{3}{4}$	5
60-69	3	$3\frac{3}{4}$	$5\frac{1}{4}$	$5\frac{3}{4}$	6
70-79	$3\frac{1}{2}$	$4\frac{1}{2}$	$6\frac{1}{4}$	$6\frac{3}{4}$	7
80 and over	4	5	7	$7\frac{1}{2}$	8

An eligible employee receiving Worker's Compensation benefits shall accrue vacation leave for the total number of hours compensated by Workers' Compensation, sick leave and annual leave.

Changes in the rate of accumulation for eligible employees shall be made effective at the beginning of the next payroll period following completion of the specified amount of service.

Service shall begin on the date of state employment. Time on suspension or nonmedical leave of absence without pay if at least one full payroll period in duration, except as otherwise provided by law or these rules, shall not be counted in determining the date of completion of a full year. An eligible employee being paid for less than the full payroll period of 80 hours will have vacation accrual pro rated for that payroll period. A vacation leave shall not be granted or accrued before completion of six calendar months of service. Upon completion of such period, vacation leave shall accrue to the employee from the beginning of the period of continuous service.

Departments or agencies may determine the time and establish schedules governing the use of vacation leave, except that in no instance will vacation leave be granted in increments of less than one-half hour except to permit utilization of lesser fractions that have been accrued.

Unused vacation may be accumulated to a total of [208] 224 working hours. Supervisors should make every effort to

schedule vacation leaves for their employees on a regular basis each calendar year in order to reduce the possibility of an employee losing vacation or leave because of a maximum accumulation having been exceeded. An eligible employee on military leave, as provided by these rules, shall not be limited to the maximum accrual of vacation leave. Such employee may immediately upon reinstatement from military leave take all vacation in excess of the maximum accumulation. As an alternative, the employee may elect to be credited with the vacation leave in excess of the maximum accumulation, but such leave shall be taken at a time determined by the appointing authority within two years of the date of reinstatement.

Any eligible employee who is separated from the state service by layoff, resignation, death, or otherwise, shall be paid for the number of working hours of unused vacation leave accumulated to that employee's credit.

An employee, who is transferred or accepts employment under the jurisdiction of a new appointing authority, or in the unclassified service of the state, or an unclassified employee who transfers to the classified service, without interruption of services to the state shall be entitled to credit of accumulated unused vacation leave earned in the employee's former employment. Notwithstanding Persl Rule 4, any state employee except an elected employee who is separated from the state or who is transferred or accepts employment under a new appointing authority, is entitled to pay for any accumulated leave. (Minn. Stat. §§ 43.222, 43.223, 43.224)

Department heads and deputies of departments listed in Minn. Stat § 15.01, plus the Energy Agency, the Governor's Crime Commission, the Indian Affairs Board, the Higher Education Coordinating Board, the Investment Board, Iron Range Resources and Rehabilitation, Office of Hearing Examiner, the Pollution Control Agency, the State Planning Agency, and the Chancellors of the Community College System and the State University System shall earn vacation pay at the rate of six hours per full payroll period. Covered departments heads and deputies who currently are eligible to receive more than six hours per full payroll period shall continue to accrue at the higher rate.

Persl 136 Sick leave. This rule applies to all classified state employees in the executive branch except for [hourly] **non-tenured** laborers, emergency employees, project employees, or temporary appointment employees and all full-time unlimited unclassified employees in the executive branch except those listed in Persl Rule 4. Sick leave provisions may be established by the appointing authority for

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employees not covered by this rule. Sick leave shall be earned by each eligible employee according to the rate schedule indicated below:

Hours of Sick Leave Accrued During Each Payroll Period of Continuous Service

Number of Hours Worked During Pay Period	Less than [800] 900 hours	[800] 900 hours and maintained
0-9	0	0
10-19	$\frac{3}{4}$	$\frac{1}{4}$
20-29	1	$\frac{1}{2}$
30-39	$1\frac{1}{2}$	$\frac{3}{4}$
40-49	2	1
50-59	$2\frac{1}{2}$	$1\frac{1}{4}$
60-69	3	$1\frac{1}{2}$
70-79	$3\frac{1}{2}$	$1\frac{3}{4}$
80 and over	4	2

Changes in the rate of accumulation for eligible employees shall be made effective following the payroll period in which the [800] 900 hour maximum accrual is attained.

An eligible employee being paid for less than a full payroll period of 80 hours will have sick leave pro rated for that payroll period unless the employee is on Workers' Compensation, in which case sick leave would be accrued for the total hours compensated by Workers' Compensation, sick leave, and annual leave. Unused sick leave hours may be accumulated to a total of [800] 900 working hours. When the maximum limitation has been accumulated, the rate of accumulation will be reduced to two hours per full payroll period, and these hours shall be placed in a lapsed sick leave bank. Any employee who has such lapsed sick leave recorded may apply to the appointing authority to have the lapsed sick restored in the event of an extended illness. The appointing authority may authorize use of all or any part of the lapsed sick leave after thorough investigation, including submission of complete medical reports providing both a diagnosis and prognosis of the illness. The appointing authority shall report to the Commissioner all instances of lapsed sick leave restored in such form as prescribed by the Commissioner.

Time off an authorized sick leave will be deducted from the first [800] 900 hours. Once the employee no longer possesses [800] 900 hours of sick leave, four working hours for each full payroll period will be accumulated until the [800] 900 maximum limit is again obtained.

Employees may utilize their allowance of sick leave, without regard to length of service, on the basis of application to and approval by the appointing authority, where absence is necessitated by inability to perform the duties of the position by reason of illness, pregnancy, or pregnancy-related problems, or disability, by necessity for medical,

dental, or chiropractic care, by exposure to contagious diseases under the circumstances in which the health of employees with whom they are associated or members of the public with whom they deal may be endangered by their attendance on duty, or by illness in their immediate family for such periods as their attendance shall be necessary. Employees may also utilize not more than three days sick leave for the birth or adoption of a child. The term "immediate family" shall be limited to the spouse, minor or dependent children, or parent living in the household of the employee and where the parent has no other person to provide the necessary nursing care. Either the appointing authority or the Commissioner may require medical examination, medical certificate, or statement from a chiropractor, as deemed necessary for approving the utilization of sick leave. A written statement from a Christian Science practitioner that the employee is a Christian Scientist and is undergoing treatment may be accepted in lieu of a medical statement. Use of a reasonable period of sick leave shall be authorized in case of death of a spouse, the parents of a spouse, and the parents, grandparents, guardian, children, brothers, sisters, or wards of the employee. In no instance will sick leave be granted in increments of less than $\frac{1}{2}$ hour except to permit utilization of lesser fractions that have been accrued.

Employees receiving injury on duty pay shall not have this time deducted from their regular accrued sick leave balance.

A former state employee who is reappointed within four years of separation from the state service under the provisions of the act and these rules except as a provisional, temporary or emergency appointee, may have previously accumulated, unused balance of sick leave revived and credited to that employee upon approval of the new appointing authority.

An employee who transfers to the jurisdiction of another appointing authority without interruption in service to the state shall be entitled to a credit in the new employment for the accumulated unused sick leave earned in the former employment.

An employee of a merit system jurisdiction or the federal competitive service with probationary or permanent status may transfer or be appointed to a position in the state service and may be credited with the amount of sick leave accumulated at the time of transfer, but not more than 12 days. Such credit shall be reduced proportionately as sick leave is accumulated in the state service.

Persl 141 [Maternity] **Child bearing/child rearing** leave of absence without pay. [Maternity] **A child bearing/child rearing** leave of absence shall be granted when requested to a [pregnant employee] **natural parent** or **an** adoptive [mother] **parent** in the classified or unclassified service for a

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period not to exceed 6 months. [Maternity] **child bearing/child rearing** leave may be extended up to a total maximum of one year by mutual consent between the employee and the appointing authority.

Persl 144 Other leaves of absence without pay. Employees may be allowed to be absent from duty without pay as provided in law (MS 43.22) with the approval of their respective appointing authorities under the following conditions:

A. Such leaves shall be granted only when it will not result in undue prejudice to the interests of the state as an employer beyond any benefits to be realized.

B. An application for leave of absence for travel or study calculated to equip the employee to render more effective service to the state may be deemed to involve such compensating benefits to be measured against the prejudice to the state involved in keeping open the position or filling it temporarily until the return of the employee.

C. Leave, not to exceed one year, may be granted to an employee to accept a position of fixed duration outside of state service which is funded by a government or private foundation grant and which is related to the employee's current work.

D. With ten days advance request, leave shall be granted to an employee to attend a political party caucus or political convention.

The Commissioner shall refuse to approve any proposed leave without pay which is deemed contrary to the best interests of the state.

Persl 181

A. Means of travel.

1. State-Owned vehicles. An employee may be permanently assigned a state-owned vehicle when required by law or if circumstances make such assignment necessary when recommended by the appointing authority and approved by the Commissioner of Administration.

Departments operating vehicles not in the Central Motor Pool shall operate them on a pool basis following rules of the Department of Administration for the operation of such state-owned vehicles.

2. Privately-Owned automobiles and aircraft. The compensation for use of a personal automobile is [15¢] **16¢**

per mile when a motor pool vehicle is not available. Mileage shall be paid based on the most direct route according to [Highway] **Transportation** Department records. Deviations from the shortest direct route, such as vicinity driving or driving from the employee's residence where the employee's residence becomes the point of departure, shall be shown on the expense account as a daily total, with a separate explanation outlining the reasons for such mileage. No additional reimbursement will be made for incidental expenses to the operation or maintenance of a personal automobile for state business except for payment of toll charges and parking.

The employee who elects to use a personal car on official state business with the approval of the appointing authority when traveling within the state in cases where a motor pool vehicle is available shall be reimbursed at the rate of [10¢] **11¢** per mile. The higher rate may be paid if the use of the motor pool vehicle would have resulted in a greater cost to the state than the reimbursement of the personal car rate.

The reimbursement for mileage shall be adjusted as follows:

A "base rate" gasoline price shall be established by computing the average price per gallon of gasoline delivered to the Central Motor Pool during the month of April, [1975] **1977**. A "new rate" shall be calculated in the same manner for each month commencing in July, [1975] **1977**. The difference, if any between the "base rate" and the "new rate" shall be added to the sum of any changes in federal or state gasoline taxes levied on or after April 1, [1975] **1977**, and such total shall be referred to as the "adjusted difference". Effective the second month following the computation of the "new rate", mileage reimbursement rates shall be increased or decreased by 1 cent for each full 10 cent increase or decrease in the "adjusted difference". In no event shall such mileage rates be less than the rates of [15] **16** cents or [10] **11** cents as set forth above.

The appointing authority may authorize travel in personal aircraft when it is deemed in the best interest of the state. Mileage reimbursement in such cases shall be 25¢ per mile and shall be based on the shortest route based on direct air mileage between the point of departure and the destination.

3. Out-of-State travel. Payment for expenses for transportation by personal vehicle for out-of-state travel shall be made on the basis of a single coach air fare for each vehicle used.

If available, motor pool vehicles or state-owned vehicles may be used for out-of-state travel. When a central motor

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pool vehicle is used, reimbursement will be made to the Central Motor Pool. The expense of such vehicles shall be charged against the out-of-state authorization of the department.

When personal vehicles are used in driving to out-of-state locations not available by commercial transportation, travel reimbursement shall be made on an actual mileage basis in accordance with these rules.

Any in-state travel expense directly related to an out-of-state trip shall be charged against the annual out-of-state travel allowance for the department involved.

4. Commercial transportation. State employees may travel in-state and out-of-state by commercial transportation when authorized by the department head. Air transportation shall be by coach class except in those instances where such space is not available. When an employee has a reservation for a flight that is not going to be used, such employee shall be accountable for the cancellation of such reservation. Air charter service may be used for in or out-of-state travel where such charter service is more practical than commercial transportation.

5. Motorcycle reimbursement. Reimbursement for use of a motorcycle on official state business, when authorized in advance by the appointing authority, shall be at the rate of 8¢ per mile. This rate shall not be subject to the escalator provision of Persl 181(a)(2).

B. Meals and lodging.

1. Employees shall claim reimbursement only for the amount actually paid for meals when in a travel status. The amount must be reasonable, taking into consideration the location in which the meal is obtained.

Maximum reimbursement, including sales tax for meals within the state, shall be [~~\$2.25~~] **\$2.45** for breakfast, [~~\$2.75~~] **\$2.95** for lunch, and [~~\$5.50~~] **\$5.90** for dinner.

Maximum reimbursement, including sales tax for meals outside the state and on trains shall be [~~\$3.00~~] **\$3.20** for breakfast, [~~\$3.50~~] **\$3.70** for lunch, and [~~\$7.50~~] **\$7.90** for dinner.

The maximum reimbursement for meals shall be increased based upon the food away from home component of the consumer's price index for urban wage earners and clerical workers for Minneapolis-St. Paul, new series index (1967=100).

The base period for any adjustment shall be the July, [1975] **1977** index and the April, [1976] **1978** index. For each full 1.5 points rise in the food away from home component of the index during the base period, the maximum

reimbursement for dinner shall be increased 5 cents effective July 1, [1976] **1978**. The maximum reimbursement for breakfast and lunch shall each also be increased by one-half of the amount of the increase for dinner. If the increased maximum reimbursements for breakfast and lunch results in an amount not equally divisible by five the maximum reimbursement for breakfast shall be rounded-down to the next amount divisible by five, and the maximum reimbursement for lunch shall be rounded up to the next amount that is equally divisible by five.

Reimbursement for an official breakfast, luncheon, dinner, or banquet meeting shall be the actual cost of the meal.

An employee on a travel status between employee's work station and a field assignment may claim reimbursement for meals under the following circumstances:

(a) Breakfast, providing the employee leaves home before 6:00 a.m. and is away from the permanent or temporary station.

(b) Dinner, providing such employee returns home after 7:00 p.m. and is away from the permanent or temporary station.

(c) Employees may be reimbursed for noon meals if the employee is in a travel status. Employees stationed in the seven-county metropolitan area shall not be reimbursed for meals obtained in the seven-county metropolitan area except when properly authorized as a special expense in section (d) below. In other areas the cost of a noon meal shall only be reimbursed where such employee would not ordinarily have incurred such a cost and the employee is considered in a travel status. Any request for reimbursement under this section shall include a statement in writing that the employee has complied with provisions of this section of the rules.

Because of variances in in-state and out-of-state hotel or motel accommodations, no fixed amounts are prescribed. It is the responsibility of the appointing authority to instruct the employee to use good judgment in incurring lodging costs. Charges shall be reasonable and consistent with the facilities available.

C. Other fees and expenses.

1. Parking fees. Employees using state-owned or private vehicles shall be reimbursed on an actual expense basis. Charges shall be necessary and reasonable, and consistent with the facilities available. When receipt or other evidence of payment is issued to the employee, such receipt must be submitted with the expense reimbursement request.

2. Telephone calls. Telephone calls between state offices and cities shall be made using the station telephone

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network if at all possible. When the state telephone network is not readily available, employees shall use a WATS line where such lines are available. Use of either the state telephone network or the WATS line is explained in the state telephone directory.

In cases where it is necessary to place a regular long distance call, the employee should request that the operator bill the call to the home office telephone number. If an employee pays cash for a long distance call, reimbursement for such calls may be obtained by using an employee expense report.

State personnel who must frequently place long distance telephone calls may be eligible for a telephone credit card. The procedure for obtaining a state telephone credit card is explained in the state telephone directory.

3. Personal expenses. Personal expenses for purpose of this rule are defined as dry cleaning, laundry, and baggage handling. Employees continuing in a travel status in excess of one week who do not return home during that week may claim reimbursement not to exceed \$3.50 per week for laundry or not to exceed \$2.00 for dry cleaning and pressing expenses for each week after the first week. If an employee returns home during a period of time in which an employee continues in a travel status, the employee is not eligible for reimbursement for laundry, dry cleaning or pressing in the subsequent week after such return. Receipts must accompany the claim for reimbursement. The employee's judgment is to be used regarding baggage handling expense. No reimbursement shall be made for personal phone calls, valet service, or similar personal expenses.

D. Special expenses shall require prior approval of the appointing authority and the approval of the Commissioner of Personnel, who shall issue guidelines regarding eligible special expenses. This section also applies to any state board, council, or commission member.

E. General provisions.

1. Station assignments. The appointing authority shall assign employees permanent or temporary stations with such assignments to be in the best interest of the state and travel origin and records shall be based on these permanent or temporary assigned stations. A department head reporting deviation from this provision shall submit a request in accordance with the rules relating to special expenses. Employees away from such designated stations on unfinished assignments may be allowed mileage reim-

bursement for trips to their stations on alternate weekends. An employee may return to the station each weekend at state expense if the cost of such return is less than that of remaining in the field.

F. Payment of expenses.

1. Expense accounts. Expense accounts for all state employees shall be submitted to the Commissioner of Finance on the prescribed form (see Accounting Procedures Manual, Section E-2). If a receipt is required and the receipt has been lost or is otherwise unavailable, an affidavit stating the facts covering the expenditure shall accompany the expense account.

A department may be billed directly for expenses such as registration or conference fees, travel agencies, hotels and motels. Such billings shall include the name of the employee and the nature and date of the expense. Payment shall be processed promptly and charged to the allotment classification for travel.

2. Advances. A department may upon request advance an estimated amount for approved travel expenses, if greater than \$50.00, to an employee who will be traveling on state business.

The authority for advance of travel expense payments may not exceed the maximum allowance permitted under state travel regulations.

In the case of travel expense advances departments having imprest cash funds shall make the advance from such accounts if possible. In other instances, departments shall prepare a statement with supporting expense voucher clearly stating the advance is being made under provisions of Minn. Stat. § 43.33. In all cases after the actual expense is determined, a final employee report for the trip and/or period for which the advance was made shall be prepared and forwarded to the Department of Finance. The advance payment transaction date and transaction number must be shown on the final employee expense report. The final expense voucher shall include the number of the state warrant covering the advance payment. If additional payment is due the employee, an additional state warrant shall be prepared in the usual manner. If an advance payment exceeds the actual expenses, the employee shall return the excess which shall be deposited in accordance with provisions established by the Commissioner of Finance.

G. Insurance. Department heads shall require proof of automobile liability insurance in the minimum amount re-

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PROPOSED RULES

quired by law before approving travel involving private automobile mileage allowance.

Any employee flying a personal aircraft on official state business must show proof of adequate liability insurance coverage by a firm licensed to do business in Minnesota. Such coverage shall be in an amount of \$50,000 minimum for each passenger seat, \$50,000 per person, and \$150,000 per accident for public liability for bodily injury, and \$50,000 property damage.

It shall be the responsibility of the employee to immediately notify the appointing authority of any change in insurance coverages under such employee's automobile and aircraft liability insurance.

H. Automobile leasing. An employee may be reimbursed for car rental expenses where the use of a state care in the conduct of state business is not possible and the use of a rental car is the only or the least expensive method of transportation. An employee using such rental car must indicate the need for the rental and attach an itemized statement for the rental upon requesting reimbursement.

Persl 203 "Allocation" means the original assignment of an individual position to an appropriate class, **or changes in assignment resulting from changes in the organizational structure of an agency or abrupt changes in duties of a position** on the basis of the kind, difficulty, and responsibility of the work performed in the position.

Department of Public Welfare Administration of Minnesota Public Social Service

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on August 19, 1977, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Hearing Examiner, Office of Hearing Examiners,

1745 University Avenue, St. Paul, Minnesota, 55104, 612-296-8112, either before the hearing or within 5 working days after the close of the hearing.

The proposed amendments to Minn. Rule DPW 160 implements federal regulations on Title XX of the Social Security Act which were published on January 31, 1977.

Copies of the proposed rules are now available and one free copy may be obtained by writing to Margaret Holt, Department of Public Welfare, Division of Social Services, Centennial Office Building, 4th Floor, St. Paul, Minnesota 55155, telephone number 612-296-2338. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 256.01, subd. 4 (2). A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone 612-296-5615.

Vera J. Likins
Commissioner

Rules as Proposed

DPW 160 Administration of Minnesota public social services.

A. Introduction.

1. This rule governs the administration of publicly funded social services in Minnesota. The authority for the administration of social services is found in Minnesota Statutes, Chapter 256, and other applicable state laws. Authority is also found in Public Law 93-647, as implemented by Title 45 of the Code of Federal Regulations, Part 228. The delivery of public social services in Minnesota is state supervised and locally administered. The authority for this method of delivery is given in Minnesota Statutes, Chapters 393 and 402.

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2. The Commissioner of Public Welfare may issue [policy] bulletins and manual material to local social service agencies and other service providers to clarify the provisions of this rule and may prescribe forms to be used in the administration of social services.

3. Social services shall be administered in a manner to ensure the individual and civil rights of applicants and clients. Information regarding individuals shall not be disclosed, except as provided under applicable state law and/or official departmental rules and regulations.

4. This rule is building on all county welfare boards and human services boards **and their respective agencies** (hereinafter referred to as local social services agencies) in the State of Minnesota administering and providing social services, **the state agency**, [or] other service providers [through] **under contract[ual agreement,] to local social services agencies or the state agency** and applicants and clients of social services. [and on the state agency.]

5. Sections A through G of this Rule apply universally to all publicly funded social services regardless of funding source. Section H applies to social services funded through Title XX of the Social Security Act of 1935, as amended.

[5.] **6. Definitions.**

a. Applicant: An individual who has directly, or through someone acting in his behalf, made application for social services.

b. Application: [The action by which an individual indicates to an agency in writing his desire to receive social services.] **A request for social services on forms prescribed by the state agency. The application shall contain sufficient information about the applicant to enable the local social services agency to make an eligibility decision. As part of the application process, the applicant shall be informed of his rights and responsibilities as outlined by the state agency.**

c. Approved vendor: Providers of social services which are licensed, approved as meeting state licensing standards, or where licensing is not required, meet standards or criteria established by the state agency or local **social services agency.**

d. Categories of individuals: Grouping of persons on the basis of common characteristics such as recipient status (Aid to Families with Dependent Children, Supple-

mental Security Income, Minnesota Supplemental Aid), income level, age and physical or mental condition.

e. **Comprehensive annual services program plan (hereinafter CASP plan): The state social services plan, which is a compilation of all the local social services plans, and which meets the state plan requirements of Title XX of the Social Security Act.**

f. **Declaration method: Acceptance of an individual's statements regarding the source and amount of his household monthly gross income, and the income maintenance status of any member of the household.**

[e.] g. Documentation: Written evidence, in addition to signed application and income declaration forms, of income maintenance status or [family] **household** monthly gross income.

[f.] h. Federal financial participation (hereinafter FFP): Federal monies available through Title XX of the Social Security Act to be used in payment for social services.

[g.] i. Fees: Monies billed and/or collected for the services provided.

[h.] j. Geographic area: Locally identified political subdivision of the state covered by a social services plan.

[i.] k. Gross income: Income, prior to any [exemptions] **deductions**, received from wages or salary; net income from self-employment; net farm income; Social Security payments; dividends, interest, rent received, or royalties; General Assistance payments; pensions and annuities; unemployment compensation; worker's compensation; alimony; child support; veteran's pensions; or any combination of the above sources of income.

[j.] l. Host county contract: Contractual agreement between a purchase of service vendor and the local social services agency (the host county) where the vendor is located. All other social services agencies wishing to purchase from the vendor are bound by the terms of the host county contract.

[k.] Household: An individual, or two or more persons related by blood, marriage, or adoption, and residing in the same domicile.]

[l.] m. Income eligible client: An individual who receives social services on the basis of income only, and

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who is not receiving Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Minnesota Supplemental Assistance (MSA).

[m.] n. **Income maintenance status:** An individual whose eligibility for Title XX federal financial participation in services received is based on his receipt of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or Minnesota Supplemental Assistance (MSA).

[n. **Letter of contract certification:** Local social service agency notification to the state agency of county welfare or human service board approval of a purchase of service contract, name of contractor, contract control number, date of effect, services to be provided, gross amount, and unit costs per service.]

o. **Local social services agency (also known as local agency):** Local agency under the authority of the county welfare or human services board which is responsible for social services.

p. **Mandatory services:** Services required in state law or federal regulation.

q. **Optional services:** Services [the availability of which are] **available** at the discretion of the county welfare or human service board.

r. **Priority services:** Services the state agency strongly recommends be made available by the local social services agencies, but [are within the] **which are available at the discretion** of the county welfare or human services board.

s. **Provider:** Agency or individual delivering services.

t. **Social services:** Those services which are included in the Minnesota [Annual] Comprehensive **Annual Services Program Plan** [.] (**CASP Plan**).

u. **Source document:** An original A written statement such as a paycheck stub or birth certificate used to verify income, age, etc.

v. **State administrative plan:** A federal approved statewide plan for the administration of the Title XX Program. The State Administrative Plan establishes the requirements in Section H. 2. of this Rule.

[v.] w. **State agency:** Minnesota Department of Public Welfare.

[w.] x. **Vendor:** Agency or individual from whom services are purchased.

B. State and local social services planning.

1. The [social service] **CASP Plan** year shall be October 1 through September 30.

2. On or before a date stipulated by the state agency; each local social services agency shall submit to the state agency a plan for service delivery and a budget to support that plan. The plan and budget shall be in accordance with the Local Social Services Plan Guidelines and budget forms prescribed by the state agency.

3. The political entity covered by a local social services plan shall be known as the geographic area. The following criteria shall be followed in establishing geographic areas:

a. A county may designate itself as a geographic area.

b. No political subdivision smaller than a county shall be designated as a geographic area.

c. A political subdivision larger than one county may be designated a geographic area if one of the following conditions is met:

(1) Counties have combined for administrative purposes under a joint powers agreement, executed pursuant to Minn. Stat. 393.01, subd. 7.

(2) Counties have combined under provision of the Human Services Act, or

(3) Contiguous counties within the same Governor's Economic Region or [counties within] two or more regions have elected by board action to submit a multi-county plan that provides the same services to the same eligibility groups in all counties in that geographic area.

(4) There is a state contract for a service, and that service is available state-wide.

4. Services provided may differ among geographic areas, except for mandatory services, which must be available on a state-wide basis.

5. Priority and optional services included in geographic area plans shall be available to all persons in eligible categories specified in the plan.

6. On or before July 1 of each year, the state agency shall [make available to the general public] **publish** a proposed [Comprehensive Annual Service Program] **CASP Plan** for the delivery of public social services. A copy of the proposed plan shall be available **from the state or local**

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social services agencies at no cost to any individual on request.

a. There shall be a 45-day period, beginning July 1, for public review and comment on the proposed plan.

b. Open meetings [shall] **may** be held throughout the state to answer questions and receive public comment on the proposed annual plan.

7. On **or before** October 1 of each year, the state agency shall publish the final [Comprehensive Annual Service Program] CASP Plan. A copy of the final plan shall be available **from the state or local social services agencies at no cost** to any individual on request.

8. **The CASP Plan may be amended by the state agency on its own initiative or at the request of a local social services agency with state agency approval.**

a. **The proposed amendment shall be published in all geographic areas affected by the amendment, and there shall be a 30-day public review and comment period on the proposed amendment.**

b. **The final amendment shall be published in all geographic areas affected by the amendment and shall not be effective earlier than the date of publication.**

C. Local agency duties and responsibilities.

1. The local social services agency [has the responsibility for provision of] **shall provide** social services as required by law and the local social services plan. These services may be provided directly by the agency, purchased, or arranged for at no cost to the local social services agency.

a. Mandatory services shall be provided in accordance with the individual service plan to all persons who need them[.] **as determined by the local social services agency.**

b. Priority and optional services shall be provided to persons requesting them in accordance with the individual service plan. The local **social services** agency's obligation to provide priority and optional services is limited to the [amount] **cost estimates** specified in the annual local social services plan.

2. The following services or components of services are mandatory and must be provided by the local social

services agency to all persons in each geographic area who need or request them.

a. Adoption services.

(1) Adoptive home studies on court referred adoption petitions.

(2) Adoptive home studies for applicants wishing to adopt minority or handicapped children.

(3) Placement and follow-up for all children placed under agency auspices.

[b. Day care services for children.]

b. [(1)] Daytime activity [center (DAC)] services.

c. [(2)] Day care services.

(1) For children receiving Aid to Families with Dependent Children (AFDC) whose parents are employed or in training for employment.

[e.] d. Family planning services.

(1) Education or counseling for individuals receiving AFDC.

[d.] e. Foster care services for children.

[e.] f. Health related services[, including services] required under the Minnesota hospitalization and commitment act.

(1) For individuals needing institutional treatment; community alternatives to institutional care for mental illness, chemical dependency or mental retardation; and management of individualized service plans on release from state institutions.

[f.] g. Protective services for adults.

(1) Subacute detoxification services.

(2) Mental retardation guardianship and conservatorship services.

[g.] h. Protective services for children.

[h.] i. Residential treatment services.

(1) For emotionally disturbed children in licensed residential treatment centers or group homes.

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PROPOSED RULES

(2) For mentally retarded children.

[i.] j. Employability services.

(1) For individuals receiving AFDC.

3. The following services, or components of services, are priority services, **which are available at the discretion of the county welfare or human services board.** [Each local social services agency shall make every effort to provide for these services.] **The state agency strongly recommends these services be made available by local social services agencies.**

a. Chore services.

(1) For individuals receiving Supplemental Security Income (SSI).

[b. Day care services for adults.]

[(1) DAC Services.]

[c.] b. Day care services for children.

(1) For children of working parents in income eligible categories.

[d.] c. Family planning services.

(1) Education or counseling for individuals in the income eligible categories.

(2) Medical services and supplies for individuals in the income eligible categories.

[e.] d. Health related services.

(1) Other than those required by the Minnesota Hospitalization and Commitment Act[.] **as defined in the CASP Plan.**

[f.] e. Home delivered and congregate meals.

(1) For individuals receiving SSI.

(2) For individuals who are in the income eligible categories.

[g.] f. Homemaking services.

(1) For all adults.

(2) For children during the temporary absence of the parent responsible for their care.

[h.] g. Information and referral services.

[i.] h. Protective services for adults.

(1) Other than subacute detoxification services and mental retardation guardianship services.

[j.] i. Residential treatment services.

(1) Primary treatment for individuals who are chemically dependent.

(2) Halfway house for individuals who are chemically dependent and mentally ill.

[k.] j. Transportation services.

(1) For individuals receiving SSI.

[l.] k. Employability services.

(1) For SSI-MSA recipients.

(2) For low-income persons who are income eligible.

4. The following services or components of services shall be made available at the option of the local social services agency.

a. Day care for children.

(1) For families who are in the income eligible categories.

(2) For families on a fee basis who are not in the income eligible categories.

b. Day care for adults.

[(1) Other than DAC.]

c. Education assistance.

d. Foster care for adults.

e. Home delivered and congregate meals.

(1) For individuals receiving AFDC.

(2) For individuals on a fee basis who are not in the income eligible categories.

f. Housing services.

g. Legal services.

h. Social and recreational services.

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i. Transportation services.

(1) Other than SSI.

j. Counseling services for families and individuals.

D. Client information for social services.

1. Information gathered on clients shall be used for the provision of services and the management of the program and shall be limited to the information necessary for these purposes.

2. Clients shall be informed that information on them is collected, used, stored and disseminated.

3. [Clients shall have access to information about themselves pursuant to applicable state and federal laws.] **Information regarding clients shall be collected, used, stored, and disseminated only in accordance with state and federal law.**

4. Officials directly related to the provision of service and administration of the program shall have access to client information. These officials may include those of the agency to which the client applies, those of the agency providing service, federal and state auditors, evaluators, and researchers with the authorization of the Commissioner of Public Welfare.

E. Application.

1. Each individual wishing to apply for social services shall be given the opportunity to do so without delay. [Applications are not to be required for information and referral services.]

a. Applications shall not be required for information and referral services.

b. Applications shall not be required for group eligibility. However, the local social services agency shall obtain sufficient information to document the basis for the group eligibility decision. EXCEPTION: Clients requesting family planning services, whether based on group eligibility or individual eligibility, shall make written application in order to document that the request is voluntary.

2. Except as provided for in E. 1. above, each application shall be completed, signed, and dated by the applicant or by a responsible individual acting on behalf of the

applicant on an application form prescribed by the state agency. If for reason of age, incompetence, noncooperation or any other valid reason the applicant cannot sign the application, the following may sign in descending order of priority:

a. Legal guardian of the applicant.

b. Relative of the applicant.

c. Friend of the applicant.

d. Agency representative.

3. Each applicant shall be given a written statement of his rights and responsibilities on the form prescribed by the state agency. For those individuals who cannot make use of/or understand the written statement for reasons such as disability, age or education, the agency representative shall read out loud or interpret the written statement to the individual or to a responsible person acting on behalf of the individual.

4. Each applicant or his representative [must] **shall** declare his income on a form prescribed by the state agency, and [must] **shall** sign and date the form. This form need not be completed if:

a. The applicant may receive services without regard to income; or

b. The agency does not intend to claim Title XX federal financial participation (FFP) for the services to be provided; or

c. The applicant may receive services on the basis of group eligibility.

5. The agency shall act promptly on the application. In no instance shall the agency take longer than 30 calendar days to [notify the applicant in writing that his application has been approved or denied.] **make an eligibility decision nor shall the agency take longer than 15 days after the eligibility decision to notify the applicant in writing that his application has been approved or denied. The notification date shall be entered in the case record.** If the application is denied, the individual shall be notified in writing of the reason for denial and of his right to appeal to the state agency.

6. If the application is approved, the local social services agency shall provide the social services with reasonable promptness. Reasonable promptness means:

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a. Within 30 days of the application; or

b. Within 15 days of the notification that the application has been approved; or

c. At an appropriate later date which has been mutually agreed upon by the local services agency and the applicant.

F. Client's right to accept or reject services.

The applicant shall have free choice to accept or reject an agency assessment of a need for social services or an offer of social services. A refusal to accept social services shall not affect payment of financial assistance under income maintenance programs except in the Work Incentive Program. The local social services agency is not relieved of its statutory responsibility to provide protective services by the refusal of such services by any person who needs such services or acts on behalf of anyone who needs social services. In these instances when a statutorily required service is rejected, the person or his caretaker or guardian shall be given a clear explanation of the possible consequences of that choice.

[F.] G. Client social services plan.

1. Whether services are provided directly by the local social services agency or through a contract with another provider, there shall be a plan for the provision of services for each family or individual receiving services.

2. The client social services plan shall:

a. [The service plan shall] Be developed with the person receiving service. If the client is unable to participate in developing the plan, the plan [is to] shall be developed with the person(s) responsible for him.

b. [The plan must] Identify the needs for service (reasons for agency involvement); the specific services to be provided; and the [goals] objectives to be achieved.

c. [The plan is to] Specify the frequency (weekly, every other week, monthly, etc.) and purpose of contacts between worker and client.

d. [The plan is to] State the anticipated time necessary to accomplish the identified [goals] objectives.

e. [The plan shall] Specify mutually agreed upon times for review of the plan, to assess progress and revise, as necessary. The plan shall be reviewed at least annually.

[G.] H. [Implementation of] Title XX of the Social Security Act.

1. Goals: Federal financial participation (FFP) under Title XX of the Social Security Act [is] shall be available to the extent Federal funds are allotted for eligible individuals and services [as] which are specified in the local social services plan. [for] Social services [related] shall be provided to achieve the following goals:

a. Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests;

d. Preserving, rehabilitating, or reuniting families;

e. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care; or other forms of less intensive care; or

f. Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

2. State administrative plan requirements:

a. The Minnesota Department of Public Welfare shall be the designated state agency for Title XX.

b. State and local funds shall be included in meeting the cost of the program.

c. Personnel administration shall be governed by rules of the State Merit System or respective county civil service system.

d. The use and disclosure of information on applicants and clients shall be safeguarded.

e. There shall be no requirements as to residency or citizenship in respect to eligibility for Title XX federal financial participation in costs of services provided.

f. Standards for institutions and foster homes shall be established by state licensing rules.

g. Standards for child day care services shall be established by state licensing rules.

h. A system of fair hearings shall be established under which an applicant may appeal denial, reduction, or termination of service.

i. The State Administrative Plan shall be amended when necessary.

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j. Amendments to the State **Administrative Plan** shall be submitted to [the Social and Rehabilitation Service of] the Department of Health, Education, and Welfare by the State Department of Public Welfare.

k. Records shall be maintained and reports made to the federal agency as required by federal regulations.

1. The aggregate state expenditures for social services shall not be reduced below the aggregate expenditures for the fiscal year ending June 30, 1973.

3. Federal social service funds shall be apportioned to the local social service agencies on the basis of a formula developed by the Commissioner of Public Welfare.

4. **Eligible Categories:** Title XX shall be available for all mandatory priority and optional services provided to eligible categories of individuals and families, when these services **and categories** are included in the local social services plan. **Eligible categories of individuals are as follows:**

[5. FFP is available for services provided to the following categories of individuals, for services included in the local social service plan:]

a. Income maintenance eligible categories:

(1) Current recipients of Aid to Families with Dependent Children (AFDC).

(2) All individuals, not in the AFDC grant, including stepfathers, but excluding foster parents, who are adult caretakers of children receiving AFDC.

(3) Recipients of Supplemental Security Income (SSI) or Minnesota Supplemental Assistance (MSA):

b. Income eligible categories:

(1) Individuals and families eligible without a fee.

(2) Individuals and families eligible with a fee.

(3) **Individuals and families whose eligibility is determined on a group basis as specified in Section H. 5. of this Rule.**

c. Eligible without regard to income:

(1) Individuals receiving information and referral services.

(2) Individuals receiving services as stated in 45 CFR 228.65 directed toward the goal of protection[,] as specified in Section H. 6. of this Rule.

(3) **Minors who voluntarily request family planning services as specified in Section H. 7. of this Rule.**

5. **Group eligibility: Local social services agencies have the option to include in the geographic area plan group determination of eligibility for social services as provided in and subject to federal regulations for Title XX.**

6. **Services directed toward the goal of preventing or remedying neglect, abuse, or exploitation without regard to income.**

a. **Adults.**

(1) **Title XX funds shall be available for services provided to adults who are unable to protect their own interests because of the actions or inactions of themselves or others which may result in injury, neglect, maltreatment, or exploitation.**

(2) **The local social services agency shall document by entering into the case record for each adult the circumstances which lead the agency to believe the adult is subject to or in risk of being abused, neglected or exploited. A social services plan shall be developed that is directed toward protecting the adult or assisting the adult in protecting his interests.**

(3) **No later than six months after the case has been opened, and every six months thereafter while the case remains open, the local social services agency shall reevaluate and document the continued need for services for preventing or remedying neglect, abuse, or exploitation of the adult. The appropriateness of the social services plan shall be reassessed at the same time.**

(4) **FFP shall be available without regard to income for the following services and activities for adults in need of protection:**

(a) **Identification of adults who are in need of protection.**

(b) **Provisions for the receipt and response to reports.**

(c) **Substantiation of the allegations.**

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(d) Counseling services with the adult or others responsible or interested in the adult's welfare when provided by the local social services agency.

(e) Assistance in arranging alternative living arrangements, medical care, legal services, and other services in the community.

(f) Assistance in arranging for guardianship, conservatorship, and commitment, or for providing advocacy, including legal services to assure the adult of rights and entitlements.

(g) Emergency homemaking not to exceed 30 days.

(h) Money management services.

(5) Eligibility for other social services in the CASP Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

b. Children.

(1) Title XX funds shall be available to prevent or remedy child neglect; abuse or exploitation. Title XX funds shall also be available for runaways harmed or threatened with harm by virtue of their status as runaways.

(2) The local social services agency shall document by entering into the case record for each child, that the parent or guardian is threatening to harm; is harming the child; or is failing to provide for the protection, care, and supervision expected by the community. Harm or threatened harm to a runaway shall also be documented.

(3) No later than six months after the case has been opened and every six months thereafter while the case remains open, the local social services agency shall reevaluate and document the continued need for services to prevent or remedy neglect, abuse or exploitation of a child. The appropriateness of the social services plan shall be reassessed at the same time.

(4) FFP shall be available without regard to income for the following services and activities for children in need of protection.

(a) Identification and social/medical diagnosis of such a child or condition.

(b) Provision for the receipt and response to reports.

(c) Substantiation of the allegations.

(d) Counseling services for families and individuals when provided by the local social services agency.

(e) Emergency shelter not to exceed 30 days in any six-month period which may be consecutive or may accumulate over more than one stay.

(f) Arranging for the provision of other services, when essential to the protection of the child.

(g) Legal representation or advocacy for the child.

(h) Court ordered social services with the exception of maintenance and medical costs which are not integral and subordinate, when the court absolves the family from making any payment or the payment established by the court does not meet the full cost of the services.

(i) All appropriate social services in the CASP Plan which are necessary to protect runaways harmed or threatened with harm.

(j) Emergency homemaking services not to exceed 30 days.

(k) Money management services.

(5) Eligibility for other social services in the CASP Plan which are directed to this goal shall be established on the basis of income maintenance status, income status, or group eligibility.

7. Family planning services.

a. Title XX FFP shall be available for family planning services provided at the option of the local social services agency to minors (under age 18) who voluntarily request such services.

b. When a minor requests family planning services, he shall be informed that his parents need not be contacted in order for him to receive services. The local social services agency shall contact the minor's parents regarding his receipt of family planning services only with the written consent of the minor.

8. Household:

a. The following individuals living in the same domicile shall be considered a household for purposes of determining eligibility for Title XX funding:

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(1) Spouses.

(2) Parents and their dependent children.

b. Household members (parents and their children under age 18) temporarily absent from the household in settings such as residential treatment, foster care, and school shall be considered members of the household.

c. The following individuals shall be considered a one-person household for purposes of determining eligibility for Title XX:

(1) An adult living alone.

(2) An adult living with individuals other than a spouse or dependent children.

(3) A child living with a relative other than a parent or legal guardian.

(4) An emancipated minor.

(5) A child whose parental rights are terminated.

(6) A child living in adoptive placement prior to finalization of the adoption.

(7) A child who is not living with his parents or legal guardian and who is seeking confidential services (social services related to determining or treating pregnancy, venereal disease, alcohol and other drug abuse as provided for in Minnesota Statute 144.343).

(8) A minor child regardless of living arrangement who receives family planning services as specified in H. 7. of this Rule.

(9) A child who is not living with his parents but whose parents are under a juvenile court order to contribute to his support as a result of a finding of dependency, neglect, or delinquency.

[9. Household Monthly Gross Income b. Monthly gross income means the total monthly income before deductions received by all family members age 14 or over.

a. Sources of monthly gross income and definitions are shall be as follows:

(1) Money, Wages or Salary — i.e., total money

earnings received for work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, cash bonuses earned, before deductions are made for taxes, bonds, pensions, union dues, and similar purposes.

(2) Net income from self-employment — i.e., gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes), and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income.

(3) Net farm income — i.e., gross receipts minus operating expenses from the operation of a farm by a person on his/her own account as owner, renter, sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes), and similar expenses. The value of fuel, food or other farm products used for family living is not included as part of net income. Form DPW-21 may be used to document farm income.

(4) Social Security — includes Social Security pensions and survivors' benefits, and permanent disability insurance payments by the Social Security Administration prior to deductions for medical insurance and railroad retirement insurance checks from the U.S. Government.

(5) Dividends, interest (on savings or bonds), income from estate or trusts, net rental income or royalties — include dividends from stockholdings or membership in associations, interest on savings or bonds, periodic receipts from estates or trust funds, net income from rental of a house, store, or other property to others, receipts from boarders or lodgers, and net royalties.

(6) General assistance — means a state and locally administered maintenance program for persons who cannot qualify for AFDC, SSI, or other income maintenance programs.

(7) Pensions and annuities — include pensions or

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PROPOSED RULES

retirement benefits paid to a retired person or his/her survivors by a former employer, or by a union, either directly or through an insurance company, periodic receipts from annuities or insurance.

(8) Unemployment compensation — means compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits received from union funds.

(9) Worker's compensation — means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the person.

(10) Alimony.

(11) Child support.

(12) Veterans' pensions — means money paid periodically by the Veterans' Administration to disabled members of the Armed Forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to exservicemen as GI insurance premiums.

b. Exclusions from monthly gross income — Excluded from computation of monthly gross income are the following:

(1) Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims,

(2) Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act;

(3) Money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self-employment);

(4) Withdrawals of bank deposits;

(5) Money borrowed;

(6) Tax refunds;

(7) Gifts;

(8) Lump sum inheritances or insurance payments;

(9) Capital gains;

(10) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;

(11) The value of USDA donated foods;

(12) The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;

(13) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(14) Earnings of a child under 14 years of age (no inquiry shall be made);

(15) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(16) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act; and

(17) Home produce utilized for household consumption.]

[6.] 9. Determination of eligibility for Title XX FFP.

a. Different methods of determining eligibility for Title XX funds may be implemented for different services, categories of individuals, and geographic areas.

b. Through official county welfare/human services board action, each geographic area shall establish methods of determining eligibility.

c. At a minimum, such method shall be the declaration method, with the exception that when a local social services agency has reason to believe a client is giving false information, the agency may then require the client to document the information.

d. When the documentation method is used:

[a. Documentation of income.]

(1) FFP [is] shall be available only to meet the cost of services provided to clients whose income maintenance status or [family] household monthly gross income has been documented:

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(2) Adequate documentation shall include written evidence of income maintenance status or [family] **household** monthly gross income in addition to the signed application and income declaration forms. This written evidence shall include either:

(a) A copy of a source document [(original written statement such as a paycheck stub used to verify income)] filed in the case record; or

(b) A written statement by the worker which specifies the content of the source document.

(3) Failure on the part of an applicant to cooperate in documenting income shall be acceptable grounds for delay beyond 30 days in processing an application or denial of eligibility for Title XX FFP in services requested.

(4) Contact with other individuals or agencies shall not be made only without the prior written permission of the applicant and shall only be made only when there is no other way to document income.

(5) If an applicant declares that income is received as cash without a receipt, the [client] **local social services agency** shall [be] request[ed] **the client** to secure a receipt from the employer.

(6) If documentation cannot be obtained in any other manner, [contact] **the local agency shall contact** [with] the employer, [by the agency is required,] after gaining the written permission of the applicant. **If a purchase of service contract permits the vendor to document eligibility and if contact with a third party is necessary, the vendor shall inform the applicant that the applicant has the right to have the local social services agency, rather than the vendor, make the contact.**

[b.] e. Applicant declaration of household size shall be accepted without documenting evidence, unless there is reason to question the declaration, in which case birth certificates or other documentation is required.

[e.] f. Time period for determination of eligibility for Title XX FFP:

(1) Income maintenance status shall be [verified for] **based on** the month of application for services or the month prior to application for services.

(2) [Family] **Household** monthly gross income shall be based on either:

(a) Prospective monthly gross income for the month in which application for services is made; or

(b) An average monthly amount estimated over any six (6) consecutive month period in which the month of application is included.

[d.] g. An individual shall remain eligible for a **maximum** of six [(6)] months from the date eligibility was initially [established.] **determined**. [However,] Eligibility may be reassessed redetermined at any time by the local social services agency.

EXCEPTION: Eligibility shall be redetermined annually for individuals whose household monthly gross income is derived exclusively from pensions, Social Security, or SSI, or a combination of these.

[8.] **10.** Social services fee.

a. When Title XX FFP is claimed for service provided to individuals and families who are income eligible without a fee, no social services fee shall be charged **to the client**.

b. When a **local** social services agency wishes to claim FFP for services provided to individuals and [families] **households** who are income eligible with a fee, a social services fee shall be charged according to the statewide fee schedule in the [Comprehensive Annual Services] **CASP Plan**.

c. Local social services agencies shall make a reasonable effort to collect fees charged. Evidence of a reasonable effort **shall** exist[s] if the local social services agency documents that at least 90% of the fees imposed have been collected. If this test cannot be documented, then a reasonable effort **shall** exist[s] if the following conditions are met and documented:

(1) A bill is rendered or notice given to the client at the time of eligibility determination of the fee amounts and dates due; and

(2) At least three collection notices are given in person or by mail to the client, usually at 30-day intervals. **Title XX eligibility is lost if the fee remains delinquent after three collection notices have been given. Title XX eligibility cannot be regained until a plan of payment has been agreed upon and implemented by the client and the agency.**

d. The fee charged shall be the amount indicated on

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PROPOSED RULES

the [statewide] **appropriate** fee schedule, in the **CASP Plan**, except that no fee shall exceed the actual cost of all the services in the service plan.

(1) [No] Fees for residential services for emotionally disturbed, [and] mentally retarded, **and epileptic** children shall [exceed \$60 per month. (See Rules DPW-30 and DPW-33).] **be consistent with Minnesota cost of care laws and rules.**

(2) When services are being provided in addition to residential services for emotionally disturbed and mentally retarded **and epileptic** children, two fees shall be computed and imposed, one for residential services and one for all other services received.

[9.] 11. Purchase of service contracting.

a. General provisions.

(1) The local social services agency shall deliver social services subject to FFP under Title XX by direct delivery, by purchase, or by arranging the services at no cost to the agency.

(2) As an alternative to providing such services directly and if not available without cost to the agency, the local social services agency may purchase services from public, nonprofit or proprietary agencies, or from individuals who have been designated as approved vendors.

(3) Services purchased with the intention of claiming FFP must be listed in the [Comprehensive Annual Services Program] **CASP Plan**.

(4) At the option of the local social services agency, these same policies and procedures may be utilized for purchased services not subject to FFP.

b. Administrative requirements.

(1) The local social services agency shall:

(a) Claim FFP only for services purchased through a written contract. Every purchase of service contract whether major or limited contract, shall be completed, signed and approved by the county welfare or human services board prior to the provisions of services.

[(b) Submit to the state agency a Letter of Contract Certification which includes a statement of board approval, name of contractor, contract control number, date of effect, services to be provided, gross amount, and unit costs per service. This letter shall be submitted on all approved major and limited contracts negotiated with agencies and facilities by the local social service agency. It is not neces-

sary to submit information on services purchased from individuals.]

[(c)] (b) Be responsible for client eligibility for purchased services; however, the local agency may make provision in the contract for the provider to make a determination of eligibility.

[(d)] (c) Be responsible for the development of a client service plan based on the needs of the individual and the ability of the provider to meet those needs.

[(e)] (d) Be responsible for monitoring purchased services and evaluating contract performance.

[(f)] (e) Purchase only from approved vendors.

(2) Case record requirements for direct services shall apply to purchased services.

(3) The local social services agency shall maintain an administrative file for each contract which contains:

(a) A copy of the signed and completed contract. [and Letter of Contract Certification.]

(b) Copies of correspondence between the provider and the local agency.

[(c)] A list of reimbursement eligible persons served to date under the terms of the contract.]

[(d)] (c) Evidence that the [certification] **determination** of reimbursement eligibility and authorization of approval of **client social services** [service] plan have been made.

[(e)] (d) Copies of monitoring and evaluation reports.

[(f)] (e) Copies of correspondence between the local agency and the state agency related to the contract.

[(g)] (f) Copies of fair hearings, complaints, grievances, and inquiries related to contract performance.

[(h)] (g) Financial, statistical, and social services reports specified in the contract.

c. Host county contracting.

(1) The local social services agency of the county in which an approved provider is located shall negotiate and administer host county purchase of service contracts on behalf of any other local social services agency wishing to purchase services.

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(2) All local social services agencies shall abide by the terms of the host county contract.

(3) The host county shall assume responsibility for monitoring and evaluation of the contract.

(4) The host county shall make available, on the request of other [public] **local** social services agencies, copies of the host county contract.

(5) The following exceptions apply:

(a) The host county need not enter a contract unless there is at least one other local agency wishing to purchase from the provider; and

(b) Each local social services agency within the area served by an Area Mental Health Board may contract directly with the Area Board; however, if a local social services agency outside of the geographic area served by the Area Board wished to purchase services, the host county policy applies.

d. Technical assistance.

(1) The local social services agency shall provide technical assistance and information to potential providers, draft contracts for purposes of negotiation, and assist providers in matters of record-keeping, statistical reporting, and determination of rates of payment.

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OFFICIAL NOTICES

Department of Agriculture

Notice of Intent to Solicit Outside Opinion Governing the Shade Tree Disease Control Program

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed permanent rules governing the Shade Tree Disease Control Program. In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Mr. Peter Grills
Minnesota Department of Agriculture
600 Bremer Arcade Building
Saint Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-8580, and in person at the above address.

All statements of information and comment must be received by August 8, 1977. Any written material received by the Department shall become part of the hearing record.

The proposed rules, if adopted, would establish procedures and guidelines for administering the sanitation, reforestation, and experimental use grant programs; and would revise portions of Agr 101 through Agr 106 dealing with the administration of the shade tree disease control program.

Peter Grills
Administrator

Notice of Intent to Solicit Outside Opinion Regarding Weather Modification

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed rules governing weather modification. In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

All interested or affected persons or groups are requested to participate. Statements of information and comment may

be made orally or in writing. Written statements of information and comment may be addressed to:

Randall Young
Minnesota Department of Agriculture
563 State Office Building
Saint Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-7686, and in person at the above address.

All statements of information and comment must be received by August 15, 1977. Any written material received by the Department shall become part of the hearing record.

The proposed rules, if adopted, would establish procedures and guidelines for the issuance of licenses and permits, submission of reports by licensees, and administration of the program.

Randall Young
Management Analyst

Department of Commerce

Notice of Intent to Solicit Outside Opinion Governing Franchises

Notice is hereby given that the Securities Division has begun considerations of revisions in the regulations relating to franchises. In order to adequately determine the nature and utility of such rules, the Securities Division hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Department of Commerce
Securities Division, Franchise Rules
500 Metro Square Building
St. Paul, Minnesota 55101

The proposed revisions, if adopted, may include, pursuant to Minn. Stat. ch. 80C, changes in the manner in which disclosures are presented to prospective franchisers, special classifications of franchises, the definition of "unfair and deceptive practices" and advertising standards.

Thomas E. Collins
Securities Division
Department of Commerce
500 Metro Square Bldg.
St. Paul, Minnesota 55101

Energy Agency

Notice of Intent to Solicit Outside Opinion Regarding Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "Agency") is seeking information or opinions from sources outside the Agency in preparing to propose the adoption of rules governing contents of applications for certificates of need and criteria for assessment of need for large liquefied gas storage facilities, large underground gas storage facilities, and large gas pipelines.

The rules are required by Minn. Stat. § 116H.13, subd. 1 (1976). The Agency requests comments and information concerning the subject matter of the proposed rules.

Interested or affected persons or groups may submit statements of information and comment orally or in writing. Written statements may be addressed to:

Leticia A. Chard
Energy Facility Analyst
Minnesota Energy Agency
740 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8438, and in person at the above address.

All statements of information and comment must be received by August 26, 1977. Any written material received

by the Agency shall become part of the hearing record in the event that the rules are promulgated.

Richard A. Wallen
Director
Certificate of Need Program

Ethical Practices Board

Notice of Public Opinion Sought

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion from Representative Tom Stoa prior to taking formal action.

Harold Chase, Chairman
Ethical Practices Board
Room 41
State Office Building
St. Paul, Minnesota 55155

June 23, 1977

Dear Mr. Chase:

I am writing to request an advisory opinion from the Commission to further clarify the expense reporting requirements for legislative reports distributed by legislators to constituents in and out of election years.

In Advisory Opinion #24, dated August, 1975, the Commission determined that expenses incurred by a legislator for a questionnaire and legislative report distributed to constituents in a non-election year need not be reported as campaign expenditures.

My question is — since such expenses are determined to be non-campaign expenses, would the expenditures need to be reported at all if the questionnaire and legislative report were paid for by the legislator out of his personal funds, rather than out of the campaign treasury?

Your consideration of this question will be appreciated.

Sincerely,

Tom Stoa
State Representative

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

95 Sherburne, Suite 203
St. Paul, Minnesota 55103
(612) 296-8239

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Legislative Reference Library
Attn: Stephen Plumb
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St. Paul, Minnesota 55155

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