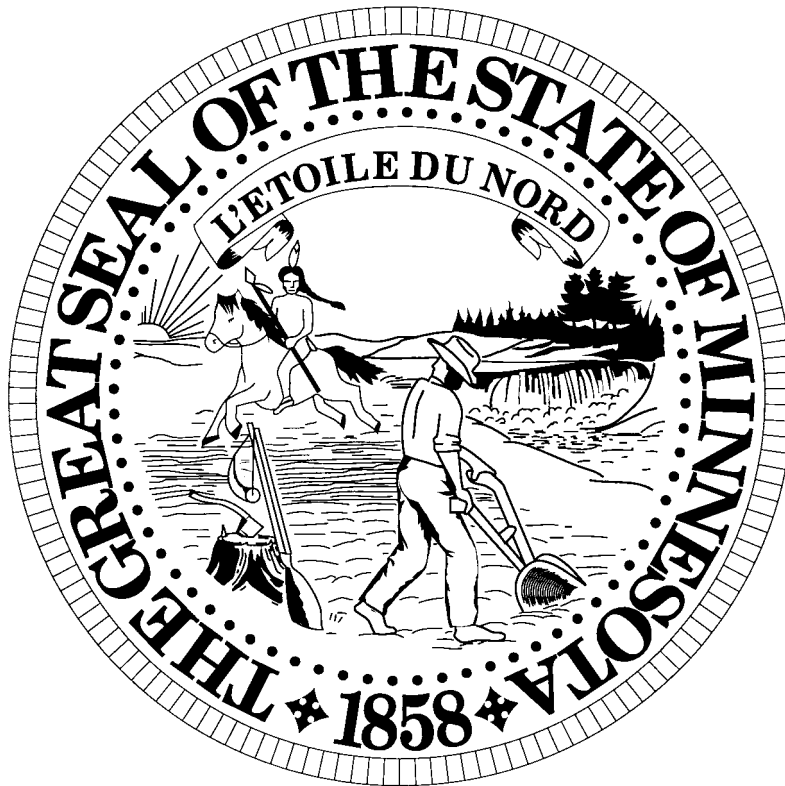


Minnesota

State Register

Rules and Official Notices Edition



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State Register

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- proclamations and commendations
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- revenue notices
- official notices
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Vol. 28 Issue Number	PUBLISH DATE	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Both Adopted and Proposed RULES
#10	Monday 8 September	Noon Tuesday 2 September	Noon Wednesday 27 August
#11	Monday 15 September	Noon Tuesday 9 September	Noon Wednesday 3 September
#12	Monday 22 September	Noon Tuesday 16 September	Noon Tuesday 10 September
#13	Monday 29 September	Noon Tuesday 23 September	Noon Tuesday 17 September

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Minnesota Rules: Amendments and Additions

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

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Comments on Planned Rules or Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rules Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* § § 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rules. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record is then closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rules Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Department of Health

Division of Facility and Provider Compliance

Proposed Permanent Rules Relating to Home Care and Hospice Service

NOTICE OF HEARING on Proposed Rules Governing Hospice Providers, *Minnesota Rules*, parts 4664.0002 to 4664.0550; Amendment to *Minnesota Rules*, parts 4668.0002 to 4668.0840 and 4669.0001 to 4669.0050; Repeal of *Minnesota Rules*, part 4668.0210

Public Hearing. The Department of Health intends to adopt rules after a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20. The agency will hold a public hearing on the above-entitled rules via interactive video-conferencing starting at 9:00 a.m. on Wednesday, November 12, 2003, and continuing until the hearing is completed, at the following three locations:

Snelling Office Park Service Center, Mississippi Room
1645 Energy Park Drive
St. Paul, Minnesota 55108

University of Minnesota Duluth, Humanities Room #458
10 University Drive
Duluth, Minnesota 55812

Murray County Courts Building, Community Meeting Room
2500 28th Street
Slayton, Minnesota 56172

Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

Administrative Law Judge. The hearing will be conducted by Administrative Law Judge Allan W. Klein, who can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7609, and FAX (612) 349-2665. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

Subject of Rules, Statutory Authority, and Agency Contact Person. The proposed rules govern the licensure of hospice providers. The Department is proposing a separate rule chapter (*Minnesota Rules*, chapter 4664) to replace the hospice portion of the current Home Care and Hospice Licensure Rules (*Minnesota Rules*, chapters 4668 and 4669). The proposed rules include the areas affecting hospice providers in the existing Home Care and Hospice Licensure Rules, plus additional provisions that reflect

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industry standards and that are consistent with the new hospice statute enacted in March of 2002 (*Minnesota Statutes*, sections 144A.75 to 144A.756). This new statute will become effective upon the adoption of these rules, except that the rulemaking authority in the statute is currently effective. The Department is also proposing to amend the hospice portion of the existing Home Care and Hospice Licensure Rules, *Minnesota Rules*, chapters 4668 and 4669, and to repeal *Minnesota Rules*, part 4668.0210. The proposed rules are authorized by *Minnesota Statutes*, section 144A.752, subd. 1.

The proposed rules establish minimum standards to assure the protection of the health, safety and well being of and appropriate treatment for the consumers of hospice services. These minimum standards include standards of training of hospice provider personnel, standards for medication management, standards for hospice patient and hospice patient's family evaluation or assessment, requirements for the involvement of a patient's physician, documentation of physician's orders, if required, and the patient's hospice plan of care, and maintenance of accurate and current clinical records. These minimum standards also include specific standards for residential hospices. The proposed minimum staffing requirement for residential hospices would require a residential hospice to have a licensed nurse on duty at all times, and to have either two staff members or one staff member and one volunteer on duty at all times. The proposed rules include requirements for residential hospice construction, installations, equipment, and facilities. For example, the proposed rules would require residential hospices to be protected by approved automatic sprinkler systems, would require each inhabited floor to have a handicapped accessible bathroom and bathing room, and would require each floor used for patient care to be wheelchair accessible. The proposed rules also include requirements for information that hospice providers and applicants need to furnish to the Department. Finally, the proposed rules describe the consequences of failing to comply with the requirements set in the new hospice statute and the proposed rules, including specific fines for violations by hospice providers.

The proposed rules affect: all hospice programs licensed in Minnesota, including residential hospice providers; nursing homes and home care providers that offer hospice services; all persons who are considering establishing a hospice program in Minnesota; hospice volunteers; state agency surveyors and other staff; ombudsmen and advocates for hospice and home care clients; and hospice patients and indirectly their family members and friends. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. The agency contact person is: Bonnie Wendt, Facility and Provider Compliance Division, Minnesota Department of Health, P.O. Box 64900, St. Paul, Minnesota 55164-0900, Phone: (651) 215-8778, FAX: (651) 215-8710, and e-mail: MDH-HospiceRules@health.state.mn.us. TTY users may call the Department of Health at (651) 215-8980 and/or Minnesota Relay Service at (800) 627-3529.

The Department will also post a copy of this notice and the proposed rules on the Department of Health's Website at: www.health.state.mn.us/divs/fpc/hospicerules.html

Statement of Need and Reasonableness. A Statement of Need and Reasonableness is now available for review at the agency offices and at the Office of Administrative Hearings. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may be reviewed and copies obtained at the cost of reproduction from the agency.

Public Comment. You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Adoption Procedure After The Hearing. After the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the

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agency adopts the rules and the rules are filed with the Secretary of State, or ask to register with the agency to receive notice of future rule proceedings, and can make these requests at the hearing or in writing to the agency contact person stated above.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 296-5148 or 1-800-657-3889.

Order. I order that the rulemaking hearing be held at the date, time, and locations listed above.

Dated: 27 August 2003

Carol Woolverton
Assistant Commissioner
Minnesota Department of Health

4664.0002 APPLICABILITY; AUTHORITY; SCOPE.

Subpart 1. Scope; authority. Parts 4664.0002 to 4664.0550 implement the licensing of hospice providers under *Minnesota Statutes*, sections 144A.75 to 144A.755, under the authority of *Minnesota Statutes*, section 144A.752. This chapter must be read together with *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 2. Medicare-certified hospice; exemptions.

A. As used in this part, the term “Medicare-certified hospice” means a hospice provider certified under the Medicare program and surveyed and enforced by the Minnesota Department of Health.

B. All licensed hospice providers must comply with this chapter, except that a Medicare-certified hospice need not comply with the following provisions of this chapter:

- (1) part 4664.0020, subpart 3;
- (2) part 4664.0060, subpart 1;
- (3) part 4664.0070, subparts 1 and 2;
- (4) part 4664.0080, subpart 3;
- (5) part 4664.0085;
- (6) part 4664.0090, subparts 2 and 3;
- (7) part 4664.0100;
- (8) part 4664.0110, subpart 1, items A and C;
- (9) part 4664.0120, subpart 2;
- (10) part 4664.0160;
- (11) part 4664.0170, subpart 2;
- (12) part 4664.0180, subparts 1, 3, 4, and 8;
- (13) part 4664.0190, subparts 1, 2, and 4;
- (14) part 4664.0210;
- (15) part 4664.0220;
- (16) part 4664.0230;
- (17) part 4664.0240;
- (18) part 4664.0250;
- (19) part 4664.0260; or
- (20) part 4664.0270, subparts 1, 2, and 8.

C. Medicare-certified hospices are exempt from the listed provisions under item B because Medicare-certified hospices must comply with equivalent federal statutes or regulations relating to the same subject matter. If a Medicare-certified hospice violates an equivalent federal statute or regulation, the violation is considered by the commissioner to be detrimental to the welfare of a patient and the Medicare-certified hospice is subject to licensing action under *Minnesota Statutes*, section 144A.754.

Subp. 3. Delegation. The commissioner may delegate any authority or responsibility to an agent of the department.

4664.0003 DEFINITIONS.

Subpart 1. Applicability. As used in parts 4664.0002 to 4664.0550, the terms in this part have the meanings given them.

Subp. 2. Attending physician. “Attending physician” means a physician who is identified by the hospice patient at the time the patient receives hospice care as having the most significant role in the determination and delivery of the patient’s medical care.

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Subp. 3. **Business.** “Business” means an individual or other legal entity that provides hospice services to persons in their residence of choice.

Subp. 4. **Commissioner.** “Commissioner” means the commissioner of health.

Subp. 5. **Contract.** “Contract” means a legally binding agreement.

Subp. 6. **Core services.** “Core services” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 3.

Subp. 7. **Counseling services or bereavement counseling.** “Counseling services” or “bereavement counseling” has the meaning given to “counseling services” in *Minnesota Statutes*, section 144A.75, subdivision 4.

Subp. 8. **Department.** “Department” means the Department of Health.

Subp. 9. **Home health aide.** “Home health aide” means a person who meets the competency and training requirements of part 4664.0260.

Subp. 10. **Home health aide services.** “Home health aide services” means services provided by a home health aide.

Subp. 11. **Hospice patient.** “Hospice patient” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 6.

Subp. 12. **Hospice patient’s family.** “Hospice patient’s family” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 7.

Subp. 13. **Hospice provider.** “Hospice provider” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 5.

Subp. 14. **Hospice services or hospice care.** “Hospice services” or “hospice care” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 8.

Subp. 15. **Hospital.** “Hospital” means a facility licensed under *Minnesota Statutes*, sections 144.50 to 144.56.

Subp. 16. **Inpatient facility.** “Inpatient facility” means a hospital, nursing home, or residential hospice facility.

Subp. 17. **Interdisciplinary team.** “Interdisciplinary team” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 9.

Subp. 18. **Legend drug.** “Legend drug” has the meaning given in *Minnesota Statutes*, section 151.01, subdivision 17.

Subp. 19. **Licensee.** “Licensee” means the legal entity responsible for the operation of a hospice, including ensuring compliance with parts 4664.0002 to 4664.0550 and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 20. **Licensed practical nurse.** “Licensed practical nurse” means a person licensed and currently registered to practice practical nursing as defined under *Minnesota Statutes*, section 148.171, subdivision 14.

Subp. 21. **Managerial official.** “Managerial official” means a director, officer, trustee, or employee of a hospice provider, however designated, who has the authority to establish or control business policy.

Subp. 22. **Medical director.** “Medical director” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 10.

Subp. 23. **Medical social services.** “Medical social services” means social work related to the medical, health, or supportive care of patients.

Subp. 24. **Nurse.** “Nurse” means a registered nurse or licensed practical nurse authorized to practice nursing in Minnesota in compliance with *Minnesota Statutes*, sections 148.171 to 148.285.

Subp. 25. **Nursing home.** “Nursing home” means a facility licensed under *Minnesota Statutes*, sections 144A.01 to 144A.155.

Subp. 26. **Nutritional counseling.** “Nutritional counseling” means services provided by a dietitian, registered nurse, or physician with respect to a hospice patient’s nutrition, including evaluation of a hospice patient’s nutritional status and recommendation for changes in nutritional care.

Subp. 27. **Occupational therapist.** “Occupational therapist” has the meaning given in *Minnesota Statutes*, section 148.6402, subdivision 14.

Subp. 28. **Occupational therapy.** “Occupational therapy” has the meaning given in *Minnesota Statutes*, section 148.6402, subdivision 15.

Subp. 29. **Other services.** “Other services” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 11.

Subp. 30. **Over-the-counter drug.** “Over-the-counter drug” means any drug that is not a legend drug.

Subp. 31. **Palliative care.** “Palliative care” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 12.

Subp. 32. **Pharmacist.** “Pharmacist” means a person licensed under *Minnesota Statutes*, chapter 151.

Subp. 33. **Physical therapist.** “Physical therapist” has the meaning given in *Minnesota Statutes*, section 148.65, subdivision 2.

Subp. 34. **Physical therapy.** “Physical therapy” has the meaning given in *Minnesota Statutes*, section 148.65, subdivision 1.

Subp. 35. **Physician.** “Physician” means a person licensed under *Minnesota Statutes*, chapter 147.

Subp. 36. **Prescriber.** “Prescriber” means a person who is authorized by *Minnesota Statutes*, section 151.01, subdivision 23, to prescribe legend drugs.

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Subp. 37. Registered nurse. “Registered nurse” means a person licensed to practice professional nursing as defined in *Minnesota Statutes*, section 148.171, subdivision 15.

Subp. 38. Residential hospice facility. “Residential hospice facility” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 13.

Subp. 39. Responsible person. “Responsible person” means a person who, because of a hospice patient’s incapacity, makes decisions about the hospice patient’s care on behalf of the hospice patient. A responsible person may be a hospice patient’s family, guardian, conservator, attorney-in-fact, or other agent of the hospice patient. Nothing in this chapter expands or diminishes the rights of persons to act on behalf of hospice patients under other law.

Subp. 40. Social worker. “Social worker” has the meaning given in *Minnesota Statutes*, section 148B.21, subdivision 3.

Subp. 41. Speech-language pathology practice. “Speech-language pathology practice” has the meaning given to “practice of speech-language pathology” in *Minnesota Statutes*, section 148.512, subdivision 13.

Subp. 42. Survey. “Survey” means an inspection of a hospice provider for compliance with this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755. Survey includes inspections conducted as part of the investigation of a complaint.

Subp. 43. Surveyor. “Surveyor” means a representative of the department authorized by the commissioner to conduct surveys of hospice providers.

Subp. 44. Unit of government. “Unit of government” means a city, county, town, school district, other political subdivision of the state, or an agency of the state or the United States and includes any instrumentality of a unit of government.

Subp. 45. Volunteer services. “Volunteer services” has the meaning given in *Minnesota Statutes*, section 144A.75, subdivision 14.

4664.0008 SERVICES INCLUDED AND EXCLUDED FROM LICENSURE.

Subpart 1. Determination of direct services. According to *Minnesota Statutes*, section 144A.75, subdivision 3, a hospice must ensure that at least two core services are regularly provided directly by hospice employees. A service that is provided directly means a service provided to a hospice patient by employees of the hospice provider and not by contract with an independent contractor. The administration of a contract for hospice services is not in itself a direct service. Factors that must be considered in determining whether a business provides hospice services directly include whether the business:

- A. has the right to control and does control the types of services provided;
- B. has the right to control and does control when and how the services are provided;
- C. establishes charges;
- D. collects fees from the patients or receives payment from third-party payers on the patients’ behalf;
- E. pays compensation on an hourly, weekly, or similar time basis;
- F. treats the individuals as employees for purposes of payroll taxes and workers’ compensation insurance; and
- G. holds itself out as a provider of hospice services or acts in a manner that leads patients or potential patients to reasonably believe that it is a provider of hospice services.

None of the factors listed in items A to G is solely determinative.

Subp. 2. Contract services. If a licensee contracts for a hospice service with a business that is not subject to licensure under this chapter, the licensee must require in the contract that the business comply with this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 3. Governmental providers. Except as otherwise provided in this chapter or in statute, hospice services that are provided by the state, counties, or other units of government must be licensed under this chapter.

Subp. 4. Fines. A fine of \$300 shall be assessed for a violation of subpart 2.

4664.0010 LICENSURE.

Subpart 1. License issued. If a hospice provider complies with the requirements of this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755, the commissioner shall issue to the hospice provider a certificate of licensure that contains:

- A. the licensee’s name and address;
- B. the provider’s name and address, if different from item A;
- C. the beginning and expiration dates;
- D. a unique license number; and
- E. the number of authorized beds for the residential hospice or hospices, if applicable.

Subp. 2. Multiple units or satellites. Multiple units or satellites of a hospice provider must share the same management that supervises and administers services provided by all units. Each unit and satellite must provide the same full range of services that

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is required of the hospice provider. Multiple units or satellites of a hospice provider must be separately licensed if the commissioner determines that the units cannot adequately share supervision and administration of services with the main office because of distinct organizational structures.

Subp. 3. Duration of license. A license is effective for one year after the date the license is issued, except as provided in subparts 11 and 12.

Subp. 4. License application. An applicant for an initial or renewal license under this part must:

A. provide the following information on forms provided by the commissioner:

(1) the applicant's name and address, including the name of the county in which the applicant resides or has its principal place of business;

(2) the address and telephone number of the principal administrative office;

(3) the address and telephone number of each multiple unit, if any;

(4) the number of authorized residential hospice facility beds and address where beds are located;

(5) the names and addresses of all owners and managerial officials;

(6) documentation of compliance with the background study requirements of *Minnesota Statutes*, section 144A.754, subdivision 5, for all persons involved in the management, operation, or control of the hospice provider;

(7) evidence of workers' compensation coverage, as required by *Minnesota Statutes*, sections 176.181 and 176.182; and

(8) any other information requested by the commissioner to determine whether the applicant is in compliance with all applicable provisions of this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755, and to determine whether the applicant has engaged in conduct detrimental to the welfare of a hospice patient;

B. pay in full the license fee specified in *Minnesota Statutes*, section 144A.753, subdivision 1, paragraph (c), based on revenues derived from the provision of hospice services during the licensee's fiscal year prior to the year in which the application is being submitted; and

C. ensure that, if the application is for a license renewal, the commissioner receives the application at least 30 days before expiration of the license.

Subp. 5. Agent. Each application for a hospice provider license or for renewal of a hospice provider license must designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner on all matters provided for in this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755; and

B. upon whom all notices and orders must be served and who is authorized to accept service of notices and orders on behalf of the applicant and, if licensed, the licensee, in proceedings under this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

The designation of one or more persons under this subpart does not affect the legal responsibility of any other owner or managerial official under this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 6. Notification of changes. An applicant or licensee shall notify the commissioner in writing within ten working days after any change in the information required to be provided by subparts 4 and 5. A licensee shall notify the commissioner in writing 30 calendar days before the cessation of providing hospice services.

Subp. 7. Application processing. The commissioner must process an application in the manner provided by *Minnesota Statutes*, section 144A.753, subdivision 1, paragraph (b). No application shall be processed without payment of the license fee in full, in the amount provided by *Minnesota Statutes*, section 144A.753, subdivision 1, paragraph (c).

Subp. 8. Verification of revenues.

A. "Revenues" means all money or the value of property or services received by an applicant and derived from the provision of hospice services, including fees for services, grants, bequests, gifts, donations, appropriations of public money, and earned interest or dividends. Under a circumstance listed in item B, the commissioner shall require each applicant to verify its revenues by providing a copy of:

(1) an income tax return;

(2) an informational tax return, such as an Internal Revenue Service Form 1065 partnership return or Form 990 tax exempt organization return;

(3) a Medicare cost report;

(4) a certified financial statement; or

(5) other documentation that verifies the accuracy of the revenues derived from the provision of hospice services for the reporting period on which the fee is based.

B. The commissioner shall require an applicant to verify its revenues if:

- (1) the commissioner has received information that a revenue report may be inaccurate; or
- (2) the hospice provider has been randomly selected for compliance verification.

Subp. 9. **Prelicensing survey.** Before granting a license, the commissioner may investigate an applicant for compliance with this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 10. **Requirements and denial of license.**

A. An applicant for an initial or renewal license as a hospice provider must meet all of the following requirements:

(1) the applicant; an owner of the applicant, individually or as an owner of another hospice provider; or another hospice provider of which an owner of the applicant also was or is an owner, must not have ever been issued a correction order for failing to assist hospice patients according to part 4664.0060, subpart 2, item D, upon the licensee's decision to cease doing business as a hospice provider;

(2) the applicant is not disqualified under *Minnesota Statutes*, sections 144.057 and 245A.04;

(3) neither the applicant or any owner or managerial official of the applicant has been unsuccessful in having a disqualification under *Minnesota Statutes*, section 144.057 or 245A.04, set aside; and

(4) no owner or managerial official of the applicant, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

B. If an applicant for an initial or renewal license as a hospice provider does not meet all of the requirements in item A, the commissioner shall deny the application. In addition, the commissioner may refuse to grant or renew a license as provided in *Minnesota Statutes*, section 144A.754, subdivision 1, paragraph (a).

Subp. 11. **Conditional license.** If a licensee that has applied for renewal is not in full compliance with this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755, at the time of expiration of its license, and the violations do not warrant denial of the license, the commissioner shall issue a license for a limited period conditioned on the licensee achieving full compliance with all applicable statutes, rules, and correction orders.

Subp. 12. **Transfers prohibited; changes in ownership.** A license issued under this part may not be transferred to another party. Before a change of ownership of a hospice provider, the prospective owner must apply for a new license under this part. The commissioner must receive the completed application at least 30 days before the effective date of the change of ownership. A change of ownership means a transfer of operational control to a different business entity and includes:

A. transfer of the business to a different or new corporation;

B. in the case of a partnership, the dissolution or termination of the partnership under *Minnesota Statutes*, chapter 323A, with the business continuing by a successor partnership or other entity;

C. relinquishment of control of the hospice provider by the licensee to another party, including to a contract management firm that is not under the control of the owner of the business' assets;

D. transfer of the business by a sole proprietor to another party or entity; or

E. in the case of a privately held corporation, the change in ownership or control of 50 percent or more of the outstanding voting stock.

Subp. 13. **Fire safety requirements.** A residential hospice facility that has been determined by the state fire marshal to be out of compliance with fire safety requirements of the state fire marshal is not eligible for licensure by the commissioner.

Subp. 14. **Display of license.** A licensee must display the original license at the hospice provider's principal business office and copies must be displayed at all other offices and residential hospice facility sites. A licensee must provide a copy of the license to any person who requests it.

Subp. 15. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 4, \$500 for providing false information;

B. subpart 6, \$100; and

C. subpart 14, \$50.

4664.0012 FINES FOR UNCORRECTED VIOLATIONS.

Subpart 1. **Authority.** The fines provided under this part are under the authority of *Minnesota Statutes*, sections 144.653, subdivision 6, and 144A.752, subdivision 2, paragraph (a), clause (4).

Subp. 2. **Fines.** For each violation of this chapter that is subject to a fine under *Minnesota Statutes*, section 144.653, subdivisions 5 to 8, a fine shall be assessed according to the schedules established in the parts violated. Fines assessed according to this chapter shall be in addition to any enforcement action taken by the commissioner under *Minnesota Statutes*, section 144A.754, subdivision 1.

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Subp. 3. Failure to correct deficiency. If, upon subsequent reinspection after a fine has been imposed under subpart 2, a deficiency is still not corrected, another fine must be assessed. The fine must be double the amount of the previous fine, except if a daily fine is required.

Subp. 4. Payment of fines. Payment of fines is due 15 working days from the licensee's receipt of notice from the department.

4664.0014 SCHEDULE OF FINES FOR VIOLATIONS OF STATUTORY PROVISIONS.

Subpart 1. Fines; statutory provisions. For each violation of one of the following statutory provisions subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the listed fine shall be assessed:

- A. section 144A.751, subdivision 1, clause (1), \$250;
- B. section 144A.751, subdivision 1, clause (2), \$250;
- C. section 144A.751, subdivision 1, clause (3), \$50;
- D. section 144A.751, subdivision 1, clause (4), \$350;
- E. section 144A.751, subdivision 1, clause (5), \$250;
- F. section 144A.751, subdivision 1, clause (6), \$250;
- G. section 144A.751, subdivision 1, clause (7), \$50;
- H. section 144A.751, subdivision 1, clause (8), \$250;
- I. section 144A.751, subdivision 1, clause (9), \$250;
- J. section 144A.751, subdivision 1, clause (10), \$250;
- K. section 144A.751, subdivision 1, clause (11), \$350;
- L. section 144A.751, subdivision 1, clause (12), \$250;
- M. section 144A.751, subdivision 1, clause (13), \$500;
- N. section 144A.751, subdivision 1, clause (14), \$250;
- O. section 144A.751, subdivision 1, clause (15), \$350;
- P. section 144A.751, subdivision 1, clause (16), \$250;
- Q. section 144A.751, subdivision 1, clause (17), \$500;
- R. section 144A.751, subdivision 1, clause (22), \$350; and
- S. section 144A.754, subdivision 5, paragraph (b), \$500.

Subp. 2. Vulnerable Adults Act. For each violation of *Minnesota Statutes*, section 626.557, the following fines shall be assessed:

- A. section 626.557, subdivision 3, \$250;
- B. section 626.557, subdivision 4a, \$100;
- C. section 626.557, subdivision 14, paragraph (b), \$250; and
- D. section 626.557, subdivision 17, \$250.

4664.0016 WAIVERS AND VARIANCES.

Subpart 1. Definitions. For purposes of this part:

- A. "waiver" means an exemption from compliance with a requirement of this chapter; and
- B. "variance" means a specified alternative to a requirement of this chapter.

Subp. 2. Criteria for waiver or variance. Upon the application of a licensee, the commissioner must waive or vary any provision of this chapter, except for those provisions reflecting statutory requirements; relating to criminal disqualification, *Minnesota Statutes*, section 144A.754, subdivision 5, paragraph (b); or relating to the hospice bill of rights, part 4664.0030, if the commissioner finds that:

A. either:

(1) the waiver or variance is necessary because of the unavailability of services or resources in the hospice provider's geographic area; or

(2) the enforcement of a requirement would result in unreasonable hardship on the licensee; and

B. the waiver or variance will not adversely affect the health, safety, or welfare of any hospice patient.

Subp. 3. Experimental variance. The commissioner shall grant a variance to allow a hospice provider to offer hospice services of a type or in a manner that is innovative, will not impair the services provided, will not adversely affect the health, safety, or welfare of the hospice patients, and is likely to improve the services provided.

Subp. 4. Conditions. The commissioner shall impose conditions on the granting of a waiver or variance that the commissioner

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considers necessary for the health, safety, and well-being of persons who receive hospice care.

Subp. 5. **Duration.** The commissioner shall identify the duration of any waiver or variance.

Subp. 6. **Application.** An application for waiver or variance from the requirements of this chapter may be made at any time, must be made in writing to the commissioner, and must specify the following:

A. the rule for which the waiver or variance is requested;

B. the time period for which the waiver or variance is requested;

C. if the request is for a variance, the specific alternative action that the licensee proposes;

D. the reasons for the request;

E. justification that subpart 2 or 3 will be satisfied; and

F. any other information that the commissioner requests to determine whether the requested waiver or variance would meet the criteria in subpart 2 or 3.

Subp. 7. **Grants and denials.** The commissioner must grant or deny each request for waiver or variance in writing. Notice of a denial must contain the reasons for the denial. The terms of a requested variance may be modified upon agreement between the commissioner and a licensee.

Subp. 8. **Violation of variances or waivers.** A failure to comply with the terms of a variance or waiver is a violation of this chapter.

Subp. 9. **Revocation or denial of renewal.** The commissioner shall revoke or deny renewal of a waiver or variance if:

A. the waiver or variance adversely affects the health, safety, or welfare of the licensee's hospice patients;

B. the licensee fails to comply with the terms of the variance;

C. the licensee notifies the commissioner in writing that it wishes to relinquish the waiver or variance and be subject to the rule previously waived or varied; or

D. the revocation or denial is required by a change in law.

Subp. 10. **Hearings.** A denial of a waiver or variance may be contested by requesting a hearing as provided by part 4664.0018. The licensee bears the burden of proving that the denial of a waiver or variance was in error.

Subp. 11. **Fines.** A fine shall be assessed for a violation under subpart 8 in the amount of the fine established for the rule that was varied or waived.

4664.0018 HEARINGS.

Subpart 1. **Hearing rights.** An applicant for a license or a licensee that has been assessed a fine under part 4664.0014, subpart 2, that has had a waiver or variance denied or revoked under part 4664.0016, or that has a right to a hearing under *Minnesota Statutes*, section 144.653, subdivision 8, or 144A.754, subdivision 1, may request a hearing to contest the action or decision according to the rights and procedures provided by this part and *Minnesota Statutes*, chapter 14.

Subp. 2. **Request for hearing.** A request for a hearing shall be in writing and shall:

A. be mailed or delivered to the commissioner or the commissioner's designee;

B. contain a brief and plain statement describing every matter or issue contested; and

C. contain a brief and plain statement of any new matter that the licensee believes constitutes a defense or mitigating factor.

Subp. 3. **Informal conference.** At any time, the licensee and the commissioner may hold an informal conference to exchange information, clarify issues, or resolve any or all issues.

4664.0020 GENERAL PROVISIONS.

Subpart 1. **Compliance.** A hospice provider must maintain compliance and provide hospice services and programs as required by this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 2. **Required services.** A hospice provider must be regularly engaged in providing care and services to hospice patients. The hospice provider must ensure that at least two core services are regularly provided by hospice employees. The core services are:

A. physician services;

B. registered nursing services;

C. medical social services; and

D. counseling services.

Subp. 3. **Service availability.** A hospice provider must make hospice care, including nursing services, physician services, and short-term inpatient care, available on a 24-hour basis, seven days a week. The hospice provider must also ensure the availability of drugs and biologicals on a 24-hour basis, seven days a week.

Subp. 4. **Additional services.** A hospice provider must provide physical therapy, occupational therapy, speech therapy, nutri-

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tional counseling, home health aide services, and volunteers as directed by the interdisciplinary team through the assessment and plan of care process.

Subp. 5. Respite care. “Respite care” means short-term care in an inpatient facility, when necessary to relieve the hospice patient’s family or other persons caring for the patient. Respite care may be provided on an occasional basis.

Subp. 6. Contingency plan.

A. A hospice provider must provide to the patient or the responsible person a contingency plan that contains:

(1) the action to be taken by the hospice provider, hospice patient, and responsible person if scheduled services cannot be provided;

(2) the method for a hospice patient or responsible person to contact a representative of the hospice provider whenever staff are providing services; and

(3) the method for the hospice provider to contact a responsible person of the patient, if any.

B. A hospice provider must ensure that the contingency plan required by item A is implemented as written.

Subp. 7. Professional licenses. Nothing in this chapter limits or expands the rights of health care professionals to provide services within the scope of their licenses or registrations.

Subp. 8. Illegal acts. Neither a hospice provider nor any owner or managerial official of the hospice provider shall permit, aid, or abet the commission of any illegal act in the provision of hospice care.

Subp. 9. False statements. Neither a hospice provider nor any owner or managerial official of the hospice provider shall make any false oral or written statement to the commissioner or any representative of the commissioner in a license application or in any other record or report required by this chapter or by *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 10. Access to information and property. A hospice provider shall permit the commissioner or an employee or agent authorized by the commissioner, upon presentation of credentials, to:

A. examine and copy any files, books, papers, records, memoranda, or data of the hospice provider; and

B. enter upon any property, public or private, for the purpose of taking any action authorized by this chapter or *Minnesota Statutes*, sections 144A.75 to 144A.755, including obtaining information required in a license application or in any other record or report required by this chapter or *Minnesota Statutes*, sections 144A.75 to 144A.755, taking steps to remedy violations, or conducting surveys.

Subp. 11. Interference prohibited. A hospice provider shall not interfere with or impede a representative of the commissioner:

A. in contacting the hospice provider’s clients; or

B. in the enforcement of this chapter or *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 12. Destruction of evidence. A hospice provider shall not destroy or otherwise make unavailable any records or other evidence relating to the hospice provider’s compliance with this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 13. Background studies. A hospice provider shall:

A. complete background studies as provided in *Minnesota Statutes*, section 245A.04;

B. cooperate with the commissioners of health and human services in connection with background studies, as provided in *Minnesota Statutes*, section 144.057; and

C. comply with *Minnesota Statutes*, section 144A.754, subdivision 5.

Subp. 14. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$100;

B. subpart 3, \$500;

C. subpart 4, \$100;

D. subpart 6, item A, \$100;

E. subpart 6, item B, \$300;

F. subpart 8, \$500;

G. subpart 9, \$500;

H. subpart 10, \$500;

I. subpart 11, \$500;

J. subpart 12, \$500; and

K. subpart 13, \$500.

4664.0025 ADVERTISING.

Subpart 1. Advertising. Licensees shall not use false, fraudulent, or misleading advertising in the marketing of hospice services. For purposes of this part, advertising includes any means of communicating to potential hospice patients or their responsible persons the availability, nature, or terms of hospice services.

Subp. 2. Fines. For each violation of this part, a fine of \$250 shall be assessed.

4664.0030 HOSPICE BILL OF RIGHTS AND NOTIFICATION OF SERVICE CHARGES.

Subpart 1. Notification of bill of rights. No later than the time hospice services are initiated, a hospice provider shall give a written copy of the hospice bill of rights, as required by *Minnesota Statutes*, section 144A.751, to each hospice patient or responsible person.

Subp. 2. Content of notice. In addition to the text of the bill of rights in *Minnesota Statutes*, section 144A.751, subdivision 1, the written notice to the patient must include the following:

A. a statement, printed prominently in capital letters, as follows:

IF YOU HAVE A COMPLAINT ABOUT THE AGENCY OR PERSON PROVIDING YOU HOSPICE SERVICES, YOU MAY CALL, WRITE, OR VISIT THE OFFICE OF HEALTH FACILITY COMPLAINTS, MINNESOTA DEPARTMENT OF HEALTH. YOU MAY ALSO CONTACT THE OMBUDSMAN FOR OLDER MINNESOTANS;

B. the telephone number, mailing address, and street address of the Office of Health Facility Complaints;

C. the telephone number and address of the Office of the Ombudsman for Older Minnesotans; and

D. the licensee's name, address, telephone number, and name or title of the person to whom problems or complaints may be directed.

Subp. 3. Charges for services. A hospice provider must provide to a hospice patient or responsible person within 48 hours of admission a written notice of charges for services, according to *Minnesota Statutes*, section 144A.751, subdivision 1, clause (8). Notice under this subdivision is in addition to the notice required by *Minnesota Statutes*, section 144A.751, subdivision 1, clause (7).

Subp. 4. Change in charges for services. A hospice provider must provide written notice of changes in charges for services, according to *Minnesota Statutes*, section 144A.751, subdivision 1, clause (16). The notice must include the name, address, and telephone number of the Office of the Ombudsman for Older Minnesotans.

Subp. 5. Acknowledgment of receipt. A hospice provider shall obtain written acknowledgment of the hospice patient's receipt of the bill of rights and notice of charges for services, or if unable to obtain written acknowledgment, document oral acknowledgment of receipt, including the date of the acknowledgment. The acknowledgment must be obtained from the hospice patient or the hospice patient's responsible person.

Subp. 6. Documentation. The licensee shall retain in the hospice patient's record documentation of compliance with this part.

Subp. 7. Waivers prohibited. A licensee shall not request or obtain from hospice patients any waiver of any of the rights enumerated in *Minnesota Statutes*, section 144A.751, subdivision 1. A waiver obtained in violation of this subpart is void.

Subp. 8. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$250;

B. subpart 2, \$50;

C. subpart 3, \$250;

D. subpart 4, \$250;

E. subpart 5, \$50; and

F. subpart 6, \$50.

4664.0040 HANDLING OF PATIENTS' FINANCES AND PROPERTY.

Subpart 1. Powers-of-attorney. A licensee must not accept powers-of-attorney from hospice patients for any purpose and must not accept appointments as guardians or conservators of hospice patients, unless the licensee maintains a clear organizational separation between the hospice service and the program that accepts guardianship or conservatorship appointments. This subpart does not apply to licensees that are Minnesota counties or other units of government.

Subp. 2. Handling patient finances. A licensee may assist hospice patients with household budgeting, including paying bills and purchasing household goods, but must not otherwise manage a hospice patient's finances. A licensee must provide a hospice patient with receipts for all transactions and purchases paid with the hospice patient's funds. When receipts are not available, the transaction or purchase must be documented. A licensee must maintain records of all such transactions.

Subp. 3. Security of patient property. A licensee must not borrow a hospice patient's property, nor in any way convert a hospice patient's property to the licensee's possession, except in payment of a fee at the fair market value of the property.

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Subp. 4. **Gifts and donations.** Nothing in this part precludes a licensee or its staff from accepting bona fide gifts of minimal value or precludes the acceptance of donations or bequests made to a licensee that are exempt from income tax under section 501(c) of the Internal Revenue Code of 1986.

Subp. 5. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$250;
- B. subpart 2, \$100; and
- C. subpart 3, \$100.

4664.0050 COMPLAINT PROCEDURE.

Subpart 1. **Requirement.** A hospice provider must establish a system for receiving, investigating, and resolving complaints from its hospice patients.

Subp. 2. **Designated person.** A hospice provider must designate a person or position that is responsible for complaint follow-up, complaint investigation, resolution, and documentation. The person or position shall maintain a log of complaints received for one year from the date of receipt.

Subp. 3. **Interdisciplinary team.** The interdisciplinary team must review any patient, family, or caregiver complaints about care provided and must take remedial action as appropriate.

Subp. 4. **Patient notice.** The system required by subpart 1 must provide written notice to each hospice patient that includes:

- A. the hospice patient's right to complain to the licensee about the services received;
- B. the name or position of the person or persons to contact with complaints;
- C. the method of submitting a complaint to the licensee;
- D. the right to complain to the Department of Health, Office of Health Facility Complaints; and
- E. a statement that the hospice provider shall in no way retaliate because of a complaint.

Subp. 5. **Prohibition against retaliation.** A licensee must not take any action that negatively affects a hospice patient or hospice patient's family in retaliation for a complaint made by the hospice patient.

Subp. 6. **Fines.** For each violation of the following subparts, the stated fines shall be assessed:

- A. subpart 1, \$250;
- B. subpart 2, \$100;
- C. subpart 3, \$300;
- D. subpart 4, \$100; and
- E. subpart 5, \$250.

4664.0060 ACCEPTANCE OF PATIENTS; DISCONTINUANCE OF SERVICES.

Subpart 1. **Acceptance of hospice patients.** No licensee shall accept a person as a hospice patient unless the licensee has staff sufficient in qualifications and numbers to adequately provide the hospice services described in *Minnesota Statutes*, section 144A.75, subdivision 8.

Subp. 2. **Discontinuance of services.** If the licensee discharges or transfers a hospice patient for any reason, then:

- A. the reason for the discharge or transfer must be documented in the clinical record. The documentation must include:
 - (1) the reason why the transfer or discharge is necessary; and
 - (2) why the patient's needs cannot be met by the licensee, if the patient continues to need hospice services;

B. a written notice must be given to the hospice patient or responsible person at least ten days in advance of termination of services by the hospice provider, except according to *Minnesota Statutes*, section 144A.751, subdivision 1, clause (16), and must include the information required under item D, and the name, address, and telephone number of the Office of the Ombudsman for Older Minnesotans. A copy of the discharge notice shall be placed in the clinical record;

C. if the hospice patient's health has improved sufficiently that the patient no longer needs the services of the licensee, the hospice patient's physician must document that the discharge is appropriate; and

D. before the discharge, the hospice provider must give the hospice patient or the responsible person a written list of providers that provide similar services in the hospice patient's geographical area and must document that the list was provided.

Subp. 3. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$350; and
- B. subpart 2, \$250.

4664.0070 GOVERNING BODY.

Subpart 1. **Governing body.** A hospice provider must have a governing body that assumes full legal responsibility for determining, implementing, and monitoring policies governing the hospice provider's total operation. The governing body members must participate in an initial orientation to the hospice philosophy.

Subp. 2. **Administrator.** A licensee must designate an individual who is responsible for the day-to-day management of the hospice program. The administrator must have defined lines of responsibility and authority and be responsible for the overall management of the hospice. The administrator is responsible to the governing body for:

A. implementing, monitoring, and reporting on the hospice's services;

B. ensuring the quality of patient care;

C. resolving problems, including the retention of all incident and accident reports for at least one year and the results of the investigations; and

D. ensuring that quality assurance activities are performed.

Subp. 3. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100; and

B. subpart 2, \$100.

4664.0080 MEDICAL DIRECTOR.

Subpart 1. **Medical director.** A licensee must have a medical director, who may be an employee or contractor or may serve as a volunteer.

Subp. 2. **Role of medical director.** A licensee must establish in writing the medical director's responsibilities and the procedures necessary to implement the licensee's policies and this chapter concerning medical care. The licensee must provide the policies and procedures to the medical director if the medical director is an employee or contractor of the licensee or a volunteer. If the medical director is a contractor, the policies and procedures must be incorporated into a written contract.

Subp. 3. **Responsibilities.**

A. The responsibilities of a medical director include, but are not limited to:

(1) assuming overall responsibility for the medical component of the hospice patient's care program;

(2) implementing the policies and procedures described in subpart 2;

(3) documenting with the attending physician, if chosen, that a hospice patient is terminally ill and the probable life expectancy is under one year. The medical director may also delegate this responsibility to a physician member of the interdisciplinary team; and

(4) providing consultation to the interdisciplinary team, hospice management, staff, and other community health providers.

B. A medical director may:

(1) with the hospice patient's consent, provide medical services to the patient; and

(2) be the physician member of the interdisciplinary team, according to the hospice provider's policy and practice.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300;

B. subpart 2, \$100; and

C. subpart 3, \$100.

4664.0085 CLINICAL NURSE SUPERVISION.

Subpart 1. **Requirement.** A licensee must have a clinical nurse supervisor who is a registered nurse.

Subp. 2. **Role.** A licensee must establish in writing the responsibilities of the clinical nurse supervisor and the procedures necessary to implement the licensee's policies and this chapter concerning nursing care and delegation. The licensee must provide the policies and procedures to the clinical nurse supervisor if the clinical nurse supervisor is an employee or contractor of the licensee or a volunteer. If the clinical nurse supervisor is a contractor, the licensee must incorporate the policies and procedures into a written contract.

Subp. 3. **Responsibilities.** The responsibilities of a clinical nurse supervisor include, but are not limited to:

A. assuming overall responsibilities for the nursing component of the hospice patient's care program;

B. implementing policies and procedures described in subpart 2;

C. providing consultation to the interdisciplinary team, hospice management, staff, and other community health providers; and

D. ensuring that a registered nurse supervises nursing personnel.

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Subp. 4. Fines. For each violation of the following parts, the stated fine shall be assessed:

- A. subpart 1, \$300;
- B. subpart 2, \$100; and
- C. subpart 3, \$300.

4664.0090 PROFESSIONAL MANAGEMENT RESPONSIBILITY.

Subpart 1. Professional management. A hospice provider must ensure that all hospice services provided by contractual arrangement related to a hospice patient's care for terminal illness are provided according to this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755.

Subp. 2. Written contracts. If a hospice provider arranges for another individual or entity, including an inpatient facility, to furnish hospice services to a hospice patient, then the hospice provider must have a written contract for the provision of the services. The contract must include:

- A. a description of the services to be provided under contract;
- B. a stipulation that services may only be provided with the express authorization of the hospice provider;
- C. the manner in which the contracted services are coordinated, supervised, and evaluated by the hospice provider;
- D. the delineation of the roles of the hospice provider and the contractor in the admission process, patient and family assessment, and interdisciplinary care conferences;
- E. requirements for documenting that services are furnished according to the contract;
- F. the qualifications of the personnel providing the services; and
- G. a stipulation that the hospice provider is responsible for overall management of the hospice patient's care coordination with other providers.

Subp. 3. Inpatient services contracts. If a hospice provider arranges for another individual or entity to furnish inpatient services to a hospice patient, then the hospice provider must have a written contract for the provision of the services. The contract must include:

- A. a requirement that the hospice provider furnish to the contractor a copy of the patient's plan of care;
- B. a statement that the contractor agrees to abide by the patient care protocols established by the hospice for its patients;
- C. a requirement that the medical record includes a record of all inpatient services and events and that a copy of the discharge summary and a copy of the medical record, if requested, is provided to the hospice provider; and
- D. a statement that the hospice provider retains responsibility for appropriate hospice care training of the personnel who provide hospice care under the contract.

Subp. 4. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$100;
- B. subpart 2, \$100; and
- C. subpart 3, \$100.

4664.0100 ASSESSMENT.

Subpart 1. Requirement. A hospice provider must ensure that each hospice patient and hospice patient family has a current assessment. An interdisciplinary team must complete an individualized, comprehensive assessment of each hospice patient and hospice patient family's needs. The assessment must address, but is not limited to, the physical, nutritional, emotional, social, spiritual, pain, symptom management, medication, and special needs of the hospice patient and hospice patient's family during the final stages of illness, dying, and bereavement, and any other areas necessary to the provision of hospice care.

Subp. 2. Fines. A fine of \$350 shall be assessed for each violation of this part.

4664.0110 PLAN OF CARE.

Subpart 1. Plan of care. Each hospice patient and hospice patient's family must have a current and up-to-date written plan of care. The plan of care must be based on the assessments described in part 4664.0100 and developed by the interdisciplinary team, medical director or designee, and the attending physician prior to providing hospice care. The plan of care must be developed with the active participation of the hospice patient or the hospice patient's responsible person. The plan of care must:

- A. reflect the current individualized needs of the hospice patient and the hospice patient's family and be based on the current assessments;
- B. address the palliative care of the hospice patient, including medication side effects and monitoring;
- C. include a description and frequency of hospice services needed to meet the hospice patient's and hospice patient family's needs. Services must include bereavement counseling for the hospice patient's family for up to one year following the death of the

patient; and

D. include identification of the persons or categories of persons who are to provide the hospice services.

Subp. 2. **Implementation.** A hospice provider must ensure that hospice services are provided according to the plan of care.

Subp. 3. **Copy of plan of care.** A hospice provider must provide the hospice patient or the responsible person a copy of the initial plan of care. Changes to the plan of care must be made available to the hospice patient or responsible person upon request.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300;

B. subpart 2, \$350; and

C. subpart 3, \$50.

4664.0120 REASSESSMENT AND REVIEW OF PLAN OF CARE.

Subpart 1. **Reassessment.** Each hospice patient and hospice patient's family shall be reassessed based on their individualized needs.

Subp. 2. **Review of plan of care.** A plan of care must be reviewed and updated at intervals as specified in the plan, by the attending physician, medical director, and the interdisciplinary team. The reviews must be documented.

Subp. 3. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300; and

B. subpart 2, \$50.

4664.0140 ORIENTATION TO HOSPICE REQUIREMENTS.

Subpart 1. **Orientation training.** Every individual applicant for a license and every person who provides direct care, supervision of direct care, or management of services for a licensee must complete an orientation training to hospice requirements before providing hospice services to hospice patients. The orientation need only be completed once. The orientation training must include the following topics:

A. an overview of this chapter and *Minnesota Statutes*, sections 144A.75 to 144A.755;

B. handling of emergencies and use of emergency services;

C. reporting the maltreatment of vulnerable minors and adults under *Minnesota Statutes*, sections 626.556 and 626.557;

D. the hospice bill of rights;

E. handling of patients' complaints and reporting of complaints to the Office of Health Facility Complaints;

F. services of the Office of the Ombudsman for Older Minnesotans; and

G. hospice philosophy and the physical, spiritual, and psychosocial aspects of hospice care.

Subp. 2. **Sources of orientation training.** The orientation training required by this part may be provided by the licensee or may be obtained from other sources. The commissioner shall provide a curriculum and materials that may be used to present the orientation training.

Subp. 3. **Verification and documentation.** Each licensee shall retain evidence that the required orientation training has been completed by each person specified in subpart 1.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300; and

B. subpart 3, \$50.

4664.0150 EMPLOYEE PERFORMANCE REVIEW AND IN-SERVICE TRAINING.

Subpart 1. **Performance review.** A hospice provider must complete a performance review of every employee according to the provider's policy, but no less often than every 24 months.

Subp. 2. **In-service training.** In-service training must address care of the terminally ill and special needs of the hospice patient and the hospice patient's family, as determined by the hospice staff and the interdisciplinary team.

Subp. 3. **Employee proficiency.** A hospice provider must ensure that employees are able to demonstrate competency in skills and techniques necessary to care for hospice patient's needs as identified through assessments and described in the plan of care.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$50;

B. subpart 2, \$50; and

C. subpart 3, \$300.

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4664.0160 QUALITY ASSURANCE.

Subpart 1. Quality assurance. A hospice provider must conduct an ongoing, integrated, self-assessment of the quality and appropriateness of hospice care provided, including inpatient care, home care, and hospice services provided under contract. The findings shall be used by the hospice provider to correct identified problems and to revise hospice policies if necessary. The licensee shall establish and implement a written quality assurance plan that requires the licensee to:

- A. monitor and evaluate two or more selected components of its services at least once every 12 months; and
- B. document the collection and analysis of data and the action taken as a result.

Subp. 2. Fines. A fine of \$100 shall be assessed for each violation of this part.

4664.0170 INTERDISCIPLINARY TEAM.

Subpart 1. Interdisciplinary team. A hospice provider must designate an interdisciplinary team. The interdisciplinary team must include at least the following individuals, two of whom must be hospice employees:

- A. a doctor of medicine or osteopathy;
- B. a registered nurse;
- C. a social worker; and
- D. a counselor.

Subp. 2. Coordinator. A hospice provider must designate a registered nurse to coordinate the implementation of the plan of care for each hospice patient, as developed by the interdisciplinary team.

Subp. 3. Coordination with other services. A hospice provider must ensure that the interdisciplinary team coordinates with any person or entity providing any service to the patient, so that all services are provided according to the plan of care.

Subp. 4. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$300;
- B. subpart 2, \$100; and
- C. subpart 3, \$100.

4664.0180 VOLUNTEER SERVICES.

Subpart 1. Volunteer services. A hospice provider may use volunteers to provide hospice services as identified by the interdisciplinary team, under the direction of the hospice volunteer coordinator, except for delegated nursing tasks, as described in subparts 6 and 7.

Subp. 2. Competency. A hospice provider must ensure that all volunteers are competent to perform their assigned services consistent with the hospice patient's plan of care.

Subp. 3. Volunteer coordinator. A hospice provider must designate a hospice provider employee or volunteer to coordinate volunteer services. The volunteer coordinator shall coordinate volunteer services to ensure that they are performed consistent with the individualized plan of care.

Subp. 4. Professional services. A hospice provider must ensure that volunteers who provide professional services meet current state licensure or registration requirements.

Subp. 5. Training. A hospice provider must ensure that each volunteer completes a volunteer training course before performing any volunteer services. The volunteer training course may be combined with other training, must be consistent with the specific tasks that volunteers perform, and must include the following topics:

- A. the orientation required by part 4664.0140;
- B. confidentiality of hospice patient records and communications between hospice patients and hospice provider employees, volunteers, and contractors;
- C. goals and services of hospice care; and
- D. record keeping.

Subp. 6. Home health aide services. A hospice provider must ensure that volunteers who perform home health aide services as identified in part 4664.0260 have been determined by a registered nurse to be competent in those services.

Subp. 7. Supervision. A hospice provider must ensure that supervision of volunteer home health aide services is provided according to part 4664.0260, subpart 4.

Subp. 8. Availability of clergy. A hospice provider must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to hospice patients who request such visits and must advise hospice patients of the opportunity for visits of clergy.

Subp. 9. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$300;
- B. subpart 3, \$100;
- C. subpart 4, \$300;
- D. subpart 5, \$300;
- E. subpart 6, \$300;
- F. subpart 7, \$350; and
- G. subpart 8, \$100.

4664.0190 HEALTH INFORMATION MANAGEMENT.

Subpart 1. Health information management. A hospice provider must maintain health information management services, including clinical records, according to accepted professional standards and practices, federal regulations, and state statutes pertaining to content of the clinical record, health care data, computerization, confidentiality, retention, and retrieval. The clinical record must be readily accessible and systematically organized to facilitate retrieval. The hospice provider must maintain the records at the hospice provider's office site. For purposes of this part, "health information management" means the collection, analysis, and dissemination of data to support decisions related to patient care, effectiveness of care, reimbursement and payment, planning, research, and policy analysis.

Subp. 2. Form of entries. A hospice provider must ensure that entries in the clinical record are made for all hospice services provided. Documentation of hospice services must be created and signed by the staff person providing the service no later than the end of the work period. Entries must be legible, permanently recorded in ink, dated, and authenticated with the name and title of the person making the entry.

Subp. 3. Content. A hospice provider must ensure that each hospice patient's record contains:

- A. identification data and the name of the responsible person;
- B. the initial assessment and reassessments;
- C. the plan of care and any changes to the plan of care;
- D. pertinent medical history and allergies;
- E. complete documentation of all events and services provided directly and by contract, treatments, medications, and progress notes;
- F. documentation on the day of occurrence of any significant change in the patient's status or any significant incident and any actions by staff in response to the change or incident;
- G. a summary following the discontinuation of services, which includes the reason for the initiation and discontinuation of services and the patient's condition at the discontinuation of services;
- H. consent and authorization forms;
- I. a copy of the patient's health care directive, if executed and available;
- J. any complaints received, investigations, and resolutions;
- K. documentation identifying coordination with other persons or entities providing services, as required by part 4664.0170, subpart 3;
- L. documentation of tuberculosis screening of residential hospice patients, as required by part 4664.0290, subpart 6; and
- M. any other information necessary to provide hospice care for each individual hospice patient.

Subp. 4. Protection of information. A hospice provider must safeguard clinical records against loss, destruction, and unauthorized use.

Subp. 5. Confidentiality. A hospice provider must not disclose to any other person any personal, financial, medical, or other information about a hospice patient, except as may be required or permitted by law. A hospice provider must establish and implement written procedures for security of hospice patient records, including:

- A. the use of patient records;
- B. the removal of patient records from the establishment; and
- C. the criteria for release of patient information.

Subp. 6. Retention. A hospice provider must retain a hospice patient's record for at least six years following the patient's discharge or discontinuation of services. A hospice provider must make arrangements for secure storage and retrieval of hospice patient records if the licensee ceases business.

Subp. 7. Transfer. If a hospice patient transfers to another hospice provider or other health care practitioner or provider or is admitted to an inpatient health care facility, a hospice provider, upon request of the hospice patient, must send a copy or summary

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of the hospice patient's record to the new provider or facility or to the patient.

Subp. 8. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100;

B. subpart 2, \$50;

C. subpart 3, \$100;

D. subpart 4, \$100;

E. subpart 5, \$250;

F. subpart 6, \$50; and

G. subpart 7, \$100.

4664.0210 PHYSICIAN SERVICES.

Subpart 1. Medical need requirement. A hospice provider must ensure that physician services are available and adequate in frequency to meet the general medical needs of the hospice patients to the extent that these needs are not met by the attending physician.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0220 NURSING SERVICES.

Subpart 1. Requirement. A hospice provider must ensure that nursing services are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0230 MEDICAL SOCIAL SERVICES.

Subpart 1. Requirement. A hospice provider must ensure that medical social services are provided by a qualified social worker and are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0240 COUNSELING SERVICES.

Subpart 1. Requirement. A hospice provider must ensure that counseling services are available and adequate in frequency to meet the needs of the hospice patient and hospice patient's family. A hospice provider must provide a planned program of supportive services and bereavement counseling under the supervision of a qualified professional according to qualifications identified by hospice policy. The services must be available to patients and families during hospice care and the bereavement period following the death of the hospice patient.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0250 PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND SPEECH-LANGUAGE PATHOLOGY.

Subpart 1. Services required. A hospice provider must ensure that physical therapy services, occupational therapy services, and speech-language pathology services are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0260 HOME HEALTH AIDE SERVICES.

Subpart 1. Home health aide services. A hospice provider must ensure that home health aide services are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. Competence. A hospice provider must ensure that persons who perform home health aide services are competent in those services.

Subp. 3. Delegated home health aide services. Home health aide services are delegated nursing services or assigned physical therapy services under the direction and supervision of a registered nurse or physical therapist. A registered nurse may delegate nursing services or a physical therapist may assign therapy services only to a home health aide who possesses the knowledge and skills consistent with the complexity of the nursing or physical therapy service being delegated or assigned and only according to *Minnesota Statutes*, sections 148.171 to 148.285 or 148.65 to 148.78, respectively. The licensee must establish and implement policies to communicate up-to-date information to the registered nurse or physical therapist regarding the current home health aides and their training and qualifications, so the registered nurse or physical therapist has sufficient information to determine the appropriateness of delegating or assigning home health aide services.

Subp. 4. Supervision. A hospice provider must ensure that the home health aide services are supervised to verify that the services are adequately provided, identify problems, and assess the appropriateness to the patient needs. The hospice provider must ensure that a registered nurse or physical therapist visits the hospice patient's home site at least every two weeks or more frequently based on the plan of care. The home health aide may or may not be present at the time of the supervisory visit.

Subp. 5. Written instructions. A hospice provider must ensure that a registered nurse or physical therapist prepares written

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instructions for hospice patient care to be performed by a home health aide. The hospice provider must ensure that the registered nurse or physical therapist orients each home health aide to each hospice patient for the services to be performed.

Subp. 6. Qualifications. A hospice provider must ensure that persons who perform home health aide services:

A. successfully complete 75 hours of training, as described in subpart 7, and a competency evaluation, as described in subpart 8; or

B. successfully complete a competency evaluation, as described in subpart 8.

Subp. 7. Training.

A. If a hospice provider provides training for persons to perform home health aide services, the training must meet the requirements in this subpart.

B. The home health aide training must combine classroom and supervised practical training totaling at least 75 hours, with at least 16 hours devoted to supervised practical training. The individual being trained must complete at least 16 hours of classroom training provided by a registered nurse before beginning the supervised practical training. "Supervised practical training" as used in this subpart means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual.

C. The training of home health aides and the supervised practical portion of the training must be performed by or under the general supervision of a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which must be in the provision of home health care. Other individuals may provide instruction under the supervision of the qualified registered nurse. A mannequin may be used for training.

D. Classroom and supervised practical training shall be based on an instruction plan that includes learning objectives, clinical content, and minimum acceptable performance standards.

Subp. 8. Competency evaluation. A hospice provider must ensure that a home health aide competency evaluation:

A. is performed by a registered nurse;

B. addresses each of the following subject areas:

(1) communication skills;

(2) observation, reporting, and documentation of patient status and the care or service furnished;

(3) basic infection control procedures;

(4) basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;

(5) maintenance of a clean, safe, and healthy environment;

(6) recognizing emergencies and knowledge of emergency procedures;

(7) physical, emotional, and developmental needs of and ways to work with the populations served by the hospice provider, including the need for respect for the patient, the patient's privacy, and the patient's property;

(8) adequate nutrition and fluid intake;

(9) reading and recording temperature, pulse, and respiration;

(10) appropriate and safe techniques in personal hygiene and grooming, including bed bath; sponge, tub, or shower bath; shampoo in sink, tub, or bed; nail and skin care; oral hygiene; toileting; and elimination;

(11) safe transfer techniques and ambulation;

(12) normal range of motion and positioning; and

(13) any other task that the registered nurse may choose to have the home health aide perform, including medication reminders, assistance with self-administration of medications, and administration of medications;

C. uses evaluation after observation of the tasks identified in item B, subitems (9) to (12). Subject areas identified in item B, subitems (1) to (8) and (13), must be evaluated through written examination, oral examination, or after observation of the home health aide with a hospice patient. Assistance with self-administration of medications, administration of medications, and other nursing procedures must be competency evaluated according to part 4664.0265; and

D. determines that a home health aide who is evaluated as satisfactory in all subject areas except one is considered competent. The aide is not allowed to perform the task in which the aide is evaluated as unsatisfactory, except under direct supervision of a registered nurse.

Subp. 9. Training and competency.

A. For each person who performs home health aide services, a licensee must comply with this subpart.

B. For each 12 months of employment or contracted services, a person who performs home health aide services must complete at least 12 hours of in-service training in topics relevant to the provision of hospice services.

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C. A hospice provider must retain documentation that it has complied with this part and must provide documentation to persons who have completed the in-service training.

D. If a person has not performed home health aide services for a continuous period of 24 consecutive months, the person must demonstrate to a registered nurse competence in the skills listed in subpart 8, item B.

Subp. 10. **Documentation.** A hospice provider must verify that persons employed or contracted to perform home health aide services have satisfied the requirements of this part and must retain documentation in the personnel records.

Subp. 11. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300;

B. subpart 2, \$300;

C. subpart 3, \$350;

D. subpart 4, \$350;

E. subpart 5, \$300;

F. subpart 6, \$300;

G. subpart 7, \$300;

H. subpart 8, \$300;

I. subpart 9, \$300; and

J. subpart 10, \$50.

4664.0265 HOME HEALTH AIDE REQUIREMENTS.

Subpart 1. **Self-administration of medications; medication administration; other nursing and physical therapy procedures.**

A. A home health aide may perform assistance with self-administration of medications, medication administration, and other nursing and physical therapy procedures if delegated the activity by a registered nurse or physical therapist.

B. "Assistance with self-administration of medications" means performing a task to enable a hospice patient to self-administer medication and includes one or more of the following:

(1) bringing the medication to the hospice patient;

(2) opening a container containing medications set up by a nurse, physician, or pharmacist;

(3) emptying the contents from the container into the hospice patient's hand;

(4) giving a medication container with contents to the hospice patient;

(5) providing liquids or nutrition to accompany medication that a patient is self-administering; or

(6) documenting the administration of medication or documenting the reason for not administering the medication as ordered.

C. "Medication administration" means performing a task to ensure that a hospice patient takes a medication and includes one or more of the following:

(1) checking the hospice patient's medication record;

(2) preparing the medication for administration;

(3) administering the medication to the hospice patient; or

(4) documenting after the administration of medication or documenting the reason for not administering the medication as ordered.

D. "Medication reminder" means providing an oral or visual reminder to a hospice patient to take medication.

E. "Pro re nata medication" or "p.r.n. medication" means a medication that is ordered to be administered to or taken by a hospice patient as necessary. The administration of a p.r.n. medication must be reported to a registered nurse:

(1) within a time period that is specified by a registered nurse prior to the administration; or

(2) if no time limit is specified, no later than 24 hours after its administration.

Subp. 2. **Training.** A home health aide performing assistance with self-administration of medication, medication administration, and other nursing and physical therapy procedures must:

A. be instructed by a registered nurse or physical therapist on specific written instructions and proper methods to perform the procedure;

B. be instructed by a registered nurse or physical therapist on reporting information to a registered nurse or physical therapist regarding the hospice patient's refusal of the procedure, when to report to the registered nurse or physical therapist, medication side effects, and reasons why the medication was not administered or not self-administered; and

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C. demonstrate to a registered nurse or physical therapist the home health aide's ability to competently follow the procedure. The registered nurse or physical therapist shall provide patient-specific instructions as required under part 4664.0260, subpart 5.

Subp. 3. **Authorization and limitations on administering medications.** Home health aides may be delegated to perform medication administration and assistance with self-administration of medications, whether oral, suppository, eye drops, ear drops, inhalant, topical, or administered through a gastrostomy tube. A home health aide delegated assistance with self-administration of medications and medication administration under this subpart must not be delegated administration of medications by injection, whether intravenously, intramuscularly, or subcutaneously.

Subp. 4. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$350;

B. subpart 2, \$300; and

C. subpart 3, \$350.

4664.0270 MEDICATION AND TREATMENT ORDERS.

Subpart 1. **Administration.** A hospice provider must ensure that all medications and treatments are administered according to the plan of care.

Subp. 2. **Authorizations.** For the purpose of this part, the term "prescriber's order" means an order for medication or treatment. A hospice provider must ensure that there is a written prescriber's order for each drug for which a hospice provider provides assistance with self-administration of medication or medication administration, as defined under part 4664.0265, including an over-the-counter drug. The prescriber's order must be dated and signed by the prescriber, except as provided by subparts 4 and 5, and must be current and consistent with the interdisciplinary team assessment. Medications may be administered by:

A. a licensed nurse or physician;

B. a home health aide who has been delegated the task of assistance with self-administration of medications or medication administration by a registered nurse;

C. the hospice patient, or the hospice patient's family, consistent with the plan of care; or

D. any other individual authorized by applicable state and local laws. The person, and each drug the person is authorized to administer, must be specified in the patient's plan of care.

Subp. 3. **Medication orders.** A prescriber's order for medication must contain the name of the drug, frequency, dosage indication, and directions for use.

Subp. 4. **Oral orders.** Upon receiving a prescriber's order orally from a prescriber, a licensed nurse or pharmacist must:

A. prepare and sign a written order reflecting the oral order; and

B. forward the written order to the prescriber for the prescriber's signature no later than seven days after receipt of the oral order. Written orders reflecting oral orders must be countersigned by the prescriber within 90 days of the oral order.

Subp. 5. **Electronically transmitted orders.** A hospice provider must ensure that:

A. a prescriber's order received by telephone, facsimile machine, or other electronic means is communicated to a supervising registered nurse. The hospice provider must take action to implement the order in a time frame that is consistent with the needs of the hospice patient, but no later than 24 hours;

B. a prescriber's order received by electronic means, not including facsimile machine, is immediately recorded or placed in the hospice patient's record by a licensed nurse, forwarded to the prescriber for the prescriber's signature, and countersigned by the prescriber within 90 days after the order was received by electronic means; and

C. a prescriber's order that is signed by the prescriber may be transmitted by facsimile machine. The prescriber's order must be immediately recorded or a durable copy placed in the hospice patient's record by a person authorized by a supervising registered nurse.

Subp. 6. **Implementation of order.** Upon receipt of a prescriber's order, a nurse must take action to implement the order within 24 hours or sooner to meet the hospice patient's needs.

Subp. 7. **Renewal of orders.** A hospice provider must ensure that a prescriber's order is renewed and meets the individual needs of the hospice patient.

Subp. 8. **Disposition of scheduled drugs.** A hospice provider must develop and implement a written policy for the disposal of drugs scheduled under *Minnesota Statutes*, section 152.02, that are maintained in the hospice patient's home when those drugs are no longer needed by the patient.

Subp. 9. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$350;

B. subpart 2, \$350;

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C. subpart 3, \$350;

D. subpart 4, \$350;

E. subpart 5, \$300;

F. subpart 6, \$500 per day;

G. subpart 7, \$100; and

H. subpart 8, \$100.

4664.0290 INFECTION CONTROL.

Subpart 1. **Screening and prevention.** A hospice provider must establish a tuberculosis counseling, screening, and prevention program for all employees, contractors, and volunteers who have direct contact with hospice patients, according to the most current tuberculosis infection control guidelines issued by the Centers for Disease Control and Prevention (CDC). The guidelines are currently titled "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Facilities, 1994," Morbidity and Mortality Weekly Report (MMWR), Recommendations and Reports, Volume 43, No. RR-13 (October 28, 1994, and as subsequently amended). The guidelines, and any subsequent amendments to the guidelines, are incorporated by reference, are subject to frequent change, and are available on the CDC Web site at www.cdc.gov/nchstp/tb.

Subp. 2. **Tuberculin screening.** A hospice provider must ensure that all employees, contractors, and volunteers who have direct contact with hospice patients, prior to employment and as otherwise indicated in this part, show freedom from active tuberculosis according to this part. The hospice provider must ensure that all such employees, contractors, and volunteers, unless certified in writing by a physician to have had a positive reaction or medical contraindication to a standard intradermal tuberculin skin test, receive or have had a Mantoux intradermal tuberculin skin test within three months prior to employment. Employees, contractors, and volunteers with a previous positive tuberculin skin test reaction must have a chest x-ray, prior to employment and as otherwise indicated in this part, unless they have documentation of a negative chest x-ray performed at any time during or since the initial evaluation of the positive tuberculin skin test.

Subp. 3. **Written documentation.** Reports or copies of reports of the tuberculin skin test or chest x-ray must be maintained by a hospice provider for each employee, contractor, and volunteer who has direct contact with hospice patients.

Subp. 4. **Evaluation of symptoms.** A hospice provider must ensure that all employees, contractors, and volunteers exhibiting symptoms consistent with tuberculosis are evaluated by a physician within 72 hours. An employee, contractor, or volunteer exhibiting symptoms consistent with tuberculosis shall not have direct patient contact until evaluated by a physician.

Subp. 5. **Patient identification; evaluation; treatment.** A hospice provider must develop and implement policies and procedures addressing the identification, evaluation, and initiation of treatment for hospice patients who might have active tuberculosis according to the most current tuberculosis infection control guidelines issued by the CDC, which are incorporated by reference under subpart 1.

Subp. 6. **Hospice patient tuberculosis screening.** A residential hospice facility must ensure that each hospice patient be assessed clinically for symptoms of active pulmonary tuberculosis disease upon admission, or within seven days prior to admission. Symptoms of active tuberculosis disease include a cough lasting longer than three weeks, especially in the presence of other symptoms compatible with tuberculosis, such as weight loss, night sweats, bloody sputum, anorexia, or fever.

Subp. 7. **Training.** A hospice provider must ensure that, for each 12 months of association with the hospice provider, all employees, contractors, and volunteers of the hospice provider who have contact with hospice patients in their residences, and their supervisors, complete in-service training about infection control techniques. The training must include information on:

A. hand washing techniques;

B. the need for and appropriate use of protective gloves, gowns, and masks;

C. disposal of contaminated materials and equipment, such as dressings, needles, syringes, and razor blades;

D. disinfecting reusable equipment; and

E. disinfecting environmental surfaces.

Subp. 8. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100;

B. subpart 2, \$500;

C. subpart 3, \$50;

D. subpart 4, \$500;

E. subpart 5, \$100;

F. subpart 6, \$500; and

G. subpart 7, \$300.

4664.0300 PERSONNEL RECORDS.

Subpart 1. Personnel records. A licensee must maintain a record of each employee, individual contractor, and volunteer. The record must include the following information:

A. evidence of current professional licensure, registration, or certification, if licensure, registration, or certification is required by state or federal law; and

B. records of training required by this chapter.

Subp. 2. Job descriptions. A licensee must maintain current job descriptions, including qualifications, responsibilities, and identification of supervisors, if any, for each job classification.

Subp. 3. Criminal background checks. A licensee must maintain documentation of criminal background checks as required in Minnesota Statutes, section 144A.754. Documentation of criminal background checks may be maintained in a confidential file, if made available to authorized parties upon request.

Subp. 4. Retention of personnel records. A hospice provider must maintain each personnel record for at least three years after an employee or contractor ceases to be employed by or under contract with the licensee.

Subp. 5. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$50;

B. subpart 2, \$50;

C. subpart 3, \$50; and

D. subpart 4, \$50.

4664.0310 INFORMATION AND REFERRAL SERVICES.

Upon request by the commissioner, a hospice provider must provide to the commissioner information necessary to establish and maintain information and referral services required by Minnesota Statutes, section 144A.755.

4664.0320 SURVEYS.

Subpart 1. Coordination of surveys. If feasible, the commissioner must survey licensees to determine compliance with this chapter at the same time as surveys for certification for Medicare and medical assistance if Medicare or Medicaid certification is based on compliance with the federal conditions of participation and on survey and enforcement by the Department of Health as agent for the United States Department of Health and Human Services.

Subp. 2. Scheduling surveys. Surveys must be conducted without advance notice to licensees. Surveyors may contact licensees on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice.

Subp. 3. Contacting and visiting hospice patients. Surveyors may contact or visit a hospice provider's patients without notice to the licensee. Before visiting a patient, a surveyor must obtain the patient's or responsible person's permission by telephone, by mail, or in person. Surveyors must inform all patients and responsible persons of their right to decline permission for a visit.

Subp. 4. Information from hospice patients. The commissioner may solicit information from hospice patients by telephone, mail, or other means.

Subp. 5. Patient information. Upon the commissioner's request, a hospice provider must provide to the commissioner information identifying some or all of its patients and any other information about the hospice provider's services to the patients.

Subp. 6. Hospice patient sample. The commissioner may conduct a written survey of all, or a sampling of, hospice patients to determine their satisfaction with the services provided.

Subp. 7. Fines. A fine of \$500 shall be assessed for each violation of subpart 5.

4664.0330 INPATIENT CARE.

Subpart 1. Short-term inpatient care. A hospice provider must ensure that inpatient care is available for pain control, symptom management, and respite purposes and is provided in a participating Medicare or Medicaid facility or a residential hospice facility. Inpatient care must be provided directly or under arrangement with one or more hospitals, nursing homes, or residential hospice facilities.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0360 REVIEW OF BUILDINGS.

Subpart 1. Review of buildings. Existing buildings and new construction must be reviewed and approved by the commissioner prior to licensure. Review includes submission of construction drawings and written specifications for new construction, additions, and major modifications.

Subp. 2. Fines. A fine of \$50 shall be assessed for each violation of this part.

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4664.0370 BUILDING CLASSIFICATION.

Subpart 1. Building classification. Notwithstanding the Minnesota State Building Code and the Minnesota State Fire Code, new construction and existing buildings converted to residential hospice facility use must:

A. meet the requirements for Group R, Division 3 occupancy, if serving five or less persons, or Group R, Division 4 occupancy, if serving six to 12 persons, under the Uniform Building Code as incorporated by reference under chapter 1305;

B. meet the requirements of NFPA 101 (Life Safety Code), 1997 edition, chapter 22, section 22-2, for small facilities housing persons with impractical evacuation capability. The Life Safety Code is incorporated by reference under part 4664.0380, subpart 2; and

C. if serving five or less persons, be protected throughout by an approved automatic sprinkler system designed and installed according to NFPA 13D or NFPA 13R, which are incorporated by reference under part 4664.0380, subpart 2.

Subp. 2. New construction, additions, and major modifications. "New construction," as used in this part and part 4664.0360, means the erection of new buildings or the alterations of or additions to existing buildings commenced on or after the effective date of parts 4664.0002 to 4664.0550. Additions to and major modifications of existing residential hospice facilities must conform to new construction standards. Compliance of existing facilities with new construction shall be for the areas involved and to the extent that the existing structure will permit, provided the health, safety, and welfare of the patients will not be adversely affected.

Subp. 3. Existing residential hospice facilities. Residential hospice facilities licensed before the effective date of parts 4664.0002 to 4664.0550 are deemed to be in compliance with the physical plant requirements for new construction.

Subp. 4. Existing building. An existing building converted to a residential hospice facility must comply with new construction standards.

Subp. 5. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$500;

B. subpart 2, \$500; and

C. subpart 4, \$500.

4664.0380 OTHER LAW; INCORPORATIONS BY REFERENCE.

Subpart 1. Minnesota Rules. All residential hospice facility construction, installations, and equipment must comply with the following rules, provided that the rules are not inconsistent with the requirements of this chapter:

A. chapters 1300 to 1370, the State Building Code;

B. chapter 4715, the Plumbing Code;

C. chapter 4720, public water supplies;

D. chapter 4725, wells and borings; and

E. chapter 7080, individual sewage treatment systems.

Subp. 2. Incorporations by reference. For purposes of this chapter, the documents listed in items A to D are incorporated by reference. They are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, and through the Minitex interlibrary loan system. They are subject to frequent change. All residential hospice facility construction, installations, and equipment must conform to the following codes, provided that the requirements of the codes are not inconsistent with the requirements of this chapter:

A. NFPA 101, Life Safety Code (1997);

B. NFPA 70, National Electrical Code (1996);

C. NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes (1999); and

D. NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height (1999).

RESIDENTIAL HOSPICE FACILITIES

4664.0390 RESIDENTIAL HOSPICE FACILITY STAFFING.

Subpart 1. Requirements. A hospice provider that operates a residential hospice facility must ensure that:

A. the residential hospice facility provides 24-hour, seven-day-a-week nursing services that are sufficient to meet total nursing needs according to each hospice patient's needs;

B. each shift at the residential hospice facility includes a licensed nurse who provides, supervises, or monitors direct care;

C. the residential hospice facility has the number and type of personnel sufficient to meet the total needs of the hospice patients. Two staff persons, or one staff person and one volunteer, must be on the premises at all times; and

D. a registered nurse must be on call whenever a registered nurse is not on duty.

Subp. 2. Fines. A fine of \$500 shall be assessed for each violation of this part.

4664.0400 FACILITY REQUIREMENTS.

Subpart 1. Building maintenance. A hospice provider that operates a residential hospice facility must ensure that every building, structure, or enclosure utilized by the facility is kept in good repair. The residential hospice provider shall develop and implement a written routine maintenance and repair program.

Subp. 2. Accessibility. Every floor of a residential hospice facility that is used for patient care must be wheelchair accessible according to chapter 1341.

Subp. 3. Freestanding or separate. A residential hospice facility must be either a freestanding building or separated from other occupancies according to the State Building Code.

Subp. 4. Floors, walls, and ceilings. The floor coverings of all rooms, hallways, bathrooms, storage rooms, and all other spaces used or traversed by hospice patients and staff must be easily cleanable. Rugs, carpet, natural stone, ceramic tile, sheet vinyl, and vinyl tile, which can be easily cleaned, are acceptable. Abrasive strips to reduce or prevent slipping must be provided where slippery surfaces present a hazard. The floors, walls, and ceilings of all rooms, hallways, and stairways must be kept clean and maintained in good repair.

Subp. 5. Housekeeping. A hospice provider that operates a residential hospice facility must provide housekeeping and maintenance services necessary to maintain a clean, orderly, and comfortable interior, including walls, floors, ceilings, registers, fixtures, equipment, lighting, and furnishings.

Subp. 6. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$200;

B. subpart 2, \$200;

C. subpart 3, \$500;

D. subpart 4, \$200; and

E. subpart 5, \$200.

4664.0420 PATIENT AREAS.

Subpart 1. Comfort and privacy. A hospice provider that operates a residential hospice facility must design and equip areas for the comfort and privacy of each hospice patient and hospice patient's family.

Subp. 2. Physical space. Each residential hospice facility must have:

A. physical space for private patient and family visiting; and

B. accommodations for the hospice patient's family to remain with the patient throughout the night.

Subp. 3. Visitors. A hospice provider that operates a residential hospice facility must ensure that hospice patients are permitted to receive visitors, including small children, at any hour.

Subp. 4. Furnishings. Furnishings of a residential hospice facility must be home-like and noninstitutional. Lounge furniture must be provided in the living room, recreational, and social spaces. Accessories such as wallpaper, bedspreads, carpets, and lamps must be selected to create a home-like atmosphere. Provision must be made for each hospice patient to bring items from home to place in the bedroom to the extent that available space provides. All fixtures, furniture, and furnishings, including windows, draperies, curtains, and carpets, must be kept clean and must be maintained in a serviceable condition.

Subp. 5. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$200;

B. subpart 2, \$200;

C. subpart 3, \$100; and

D. subpart 4, \$200.

4664.0425 CENTRAL MEDICATION STORAGE.

Subpart 1. Applicability. A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. Central medication storage. Central storage of medications must be managed under a system that is established by a pharmacist or a registered nurse in consultation with a pharmacist and that addresses the control of medications, handling of medications, medication containers, medication records, and disposition of medications, including ongoing security of drugs scheduled under *Minnesota Statutes*, section 152.02. Central medication storage must include a cabinet or device that stores medications for one or more persons. Medications requiring refrigeration must be stored in a separate locked box in the refrigerator or in a separate lockable drug-only refrigerator, capable of maintaining temperatures required for the storage of drugs. Central medication stor-

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age is not required for hospice patient medications in a private home unless assessed as needed by the interdisciplinary team.

Subp. 3. Control of medications. A residential hospice facility must have in place and implement a written policy that contains at least the following provisions:

A. a statement of whether the staff will be delegated to provide medication reminders, assistance with self-administration of medication, medication administration, or a combination of those services;

B. a description of how the distribution of medications will be handled;

C. a requirement that all drugs be stored in locked compartments under proper temperature controls. Schedule II drugs, as defined in *Minnesota Statutes*, section 152.02, must be stored in separately locked compartments, permanently affixed to the physical plant or medication cart;

D. a procedure for accounting for all Schedule II drugs after each shift;

E. procedures for recording medications that hospice patients are taking;

F. procedures for review and destruction of discontinued, outdated, or deteriorated drugs. Secure storage of all discontinued drugs must be provided until destruction. Schedule II drugs must be held in a separately locked compartment until destruction. Destruction of all legend drugs must be witnessed and documented by two persons, one of which is a registered nurse. The destruction notation must include the date, quantity, name of drug, prescription number, signature of the person destroying the drugs, and signature of the witness. The medication destruction must be recorded in the patient's clinical record;

G. procedures to address hospice patient medications brought from home; and

H. a statement that only authorized personnel are permitted to have access to keys to locked drug compartments.

Subp. 4. Over-the-counter drugs. An over-the-counter drug may be retained in general stock supply and must be kept in the original labeled container.

Subp. 5. Legend drugs. A legend drug must be kept in its original container bearing the original prescription label with legible information stating the prescription number, name of drug, strength and quantity of drug, expiration date of a time-dated drug, directions for use, patient's name, prescriber's name, date of issue, and the name and address of the licensed pharmacy that issued the medication.

Subp. 6. Medication samples. A sample of medication provided to a hospice patient by an authorized prescriber may be used by the patient and must be identified with the patient's name and kept in its original container bearing the original label with legible directions for use. If assistance with self-administration of medication or medication administration is provided, a hospice patient's plan of care must address the use of a medication sample.

Subp. 7. Prohibitions. No legend drug supply for one hospice patient may be used or saved for the use of another patient.

Subp. 8. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$300;

B. subpart 3, \$300;

C. subpart 4, \$300;

D. subpart 5, \$300;

E. subpart 6, \$300; and

F. subpart 7, \$300.

4664.0430 PATIENT CARE AREAS.

Subpart 1. Applicability. A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. Space to meet needs of patients. Appropriate space and arrangements for sleeping, dining, and recreation and other common use areas for patient activities must be provided.

Subp. 3. Patient bedroom. A bedroom must be an exterior room with at least one window, which is easily opened to the outside. The floor of the bedroom at the exterior wall must be at or above grade. The windowsill must be no more than 30 inches above the floor. Bedrooms must be either private or semiprivate (two-bed) rooms. Each bedroom must provide at least 100 square feet of useable floor area for each bed. No basic interior room dimension may be less than nine feet. In multibed rooms, there must be at least three feet of clear space at the foot and both sides of each bed. A bedroom must provide an individual enclosed wardrobe or closet space for each hospice patient. The wardrobe or closet must be accessible for use by each hospice patient. A bedroom or bathroom must be equipped with an individual towel bar for each hospice patient. A bedroom must have provisions to ensure visual privacy for treatment and visiting. A room with access only through a kitchen, bathroom, or bedroom will not be approved as a hospice patient bedroom.

Subp. 4. Patient bedroom furnishings. A bedroom must contain a serviceable bed, pillow, and chair. The bed must be at least 36 inches wide. Beds must be of suitable construction and dimensions to accommodate persons using them.

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Subp. 5. **Bedding and linen.** A residential hospice facility must have available at all times a quantity of linen essential for proper care and comfort of hospice patients. All beds provided for hospice patients must be supplied with suitable pillowcases and bottom and top sheets. All bedding and bath linen, including mattresses, quilts, blankets, pillows, pillowcases, sheets, bedspreads, towels, and washcloths must be kept clean and in serviceable condition. Clean bed linen must be furnished at least once each week, or more frequently to maintain cleanliness, and at least one clean washcloth and one clean towel must be available each day to a hospice patient.

Subp. 6. **Linens handling.** A hospice provider must ensure that all bedding and bath linen, including mattresses, quilts, blankets, pillows, pillow cases, sheets, bedspreads, towels, and washcloths are kept clean and in serviceable condition. The residential hospice facility must ensure that linens are handled, stored, processed, and transported in such a manner to prevent the spread of infection.

Subp. 7. **Personal clothing and laundry.** Each hospice patient must have neat and clean clothing appropriate for the patient's needs. Laundry services must be provided and managed in a manner to provide clean clothing on a daily basis or more often if needed to maintain cleanliness.

Subp. 8. **Residential-type equipment.** Provision must be made directly or by contract for washing and drying linen and personal clothing. If provided directly by the hospice provider, the washer and dryer may be residential-type equipment for linen and personal laundry.

Subp. 9. **Patient bathroom.** Bathroom facilities must be conveniently accessible to hospice patient rooms. One bathroom may serve up to eight hospice patients. There must be at least one handicapped-accessible bathroom in each residential hospice facility. The bathroom must be furnished with a water closet, lavatory, mirror, paper towel dispenser, soap dispenser, and a tub or shower. If a tub or shower is provided in a separate bathing room, these fixtures are not required in the bathroom. The separate bathing room, if provided, must be handicapped-accessible. A handicapped-accessible bathroom and bathing room must be available on each inhabited floor.

Subp. 10. **Call system.** An electrical or electronic call system must be provided in each hospice patient bedroom and bathroom. If the tub or shower is in a room separate from a bathroom, a call system must be provided in the tub or shower room.

Subp. 11. **Living and lounge space.** A minimum of 30 square feet per bed of living and lounge space must be provided.

Subp. 12. **Space for social activities.** A minimum of 200 square feet, exclusive of corridors, hallways, and living and lounge space, must be provided for recreational and social activities.

Subp. 13. **Soiled linen and infectious waste.** A separate enclosed room must be provided for the storage of soiled linen and infectious waste.

Subp. 14. **Ancillary space.** Space must be provided for charting, storage of clean linen, clean supplies, personal effects of staff, patient care equipment, housekeeping and cleaning supplies and equipment, and medications.

Subp. 15. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$100;

B. subpart 3, \$100;

C. subpart 4, \$100;

D. subpart 5, \$200;

E. subpart 6, \$300;

F. subpart 7, \$100;

G. subpart 8, \$200;

H. subpart 9, \$200;

I. subpart 10, \$200;

J. subpart 11, \$200;

K. subpart 12, \$200;

L. subpart 13, \$200; and

M. subpart 14, \$200.

4664.0440 MECHANICAL SYSTEMS.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. **Water supply system.** An adequate and safe supply of potable water must be provided for the residential hospice facility. The water supply system must be located, constructed, and operated according to the standards of the commissioner. A community water supply system must comply with chapter 4720. A domestic water well system must comply with chapter 4725.

Subp. 3. **Plumbing system.** All plumbing systems must be installed and tested according to chapter 4715, the Plumbing Code.

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Subp. 4. Sewage disposal system. All liquid waste must be disposed of in an approved public sewage system or in a sewage system that is designed, constructed, installed, and operated according to chapter 4715 and applicable local ordinances. An individual on-site sewage treatment system must comply with chapter 7080.

Subp. 5. Ventilation system. Mechanical supply and exhaust ventilation must be provided in each living room, kitchen, bedroom, bathroom, soiled linen room, and laundry room. The system must be capable of maintaining excessive heat, odors, fumes, vapors, smoke, and condensation at a level barely perceptible to the normal senses.

Subp. 6. Heating, cooling, and humidification systems. Heating and cooling systems must be capable of maintaining a minimum temperature of 72 degrees Fahrenheit during the heating season and a maximum temperature of 78 degrees Fahrenheit during the cooling season in all hospice patient use areas. Areas must be zoned according to use and exposure and must be provided with thermostatic temperature controls. The humidification system must be capable of maintaining a space humidity between 30 percent relative humidity and 50 percent relative humidity.

Subp. 7. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$200;
- B. subpart 3, \$200;
- C. subpart 4, \$200;
- D. subpart 5, \$200; and
- E. subpart 6, \$200.

4664.0450 ELECTRICAL SYSTEMS.

Subpart 1. Applicability. A hospice provider that operates a residential hospice facility must ensure that the requirements of this part are met.

Subp. 2. Electrical systems. All electrical systems must be installed and tested according to the National Electrical Code, incorporated by reference under part 4664.0380, subpart 2.

Subp. 3. Interior lighting. Artificial lighting must be provided in every room of a residential hospice facility. The lighting must be consistent with a home-like atmosphere and provide illumination levels suitable to the tasks the hospice patient chooses to perform or the residential hospice facility staff must perform.

Subp. 4. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$200; and
- B. subpart 3, \$200.

4664.0470 ISOLATION.

Subpart 1. Isolation. A hospice provider that operates a residential hospice facility must maintain and implement a procedure for isolating hospice patients with infectious diseases. The hospice provider must institute the most current isolation precautions recommendations of the Centers for Disease Control and Prevention (CDC). The recommendations are currently titled "Guideline for Isolation Precautions in Hospitals" (1996, and as subsequently amended). The recommendations, and subsequent amendments to the recommendations, are incorporated by reference. The recommendations are available on the CDC Web site at www.cdc.gov/ncidod and are subject to frequent change.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0480 COMMUNICABLE DISEASE REPORTING.

Subpart 1. Reportable diseases. A hospice provider must comply with chapter 4605 as required by part 4605.7030, subpart 6.

Subp. 2. Fines. A fine of \$300 shall be assessed for each violation of this part.

4664.0490 MEAL SERVICE.

Subpart 1. Applicability. A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. Nutritional needs. A hospice provider must provide services designed to meet the individualized nutritional needs of each hospice patient. Special dietary restrictions must be noted on the patient's plan of care. Food and nutritional supplements must be provided to meet individual needs.

Subp. 3. Meal preparation. Employees, volunteers, licensed food service contractors, or providers licensed by the department may provide meal preparation in a residential hospice facility. All employees or volunteers who prepare or serve food must receive training in the safe practices of food handling. Food must be stored, prepared, distributed, and served under sanitary conditions to prevent food borne outbreaks.

Subp. 4. Kitchen and dining areas. The kitchen must have a refrigerator, stovetop and oven, exhaust hood, microwave oven, double-compartment sink, and dishwashing machine. The exhaust hood must be located over the stovetop and be vented to the outside. The dining area must be adequate for the hospice patients. "Adequate" means large enough to provide space for both seat-

ing and safe circulation of all persons using the dining area.

Subp. 5. Food service equipment. In a residential hospice facility licensed for 12 or fewer beds, the kitchen appliances may be domestic-type equipment. Enclosed storage space for nonperishables must be provided in the kitchen. All appliances must be maintained in working order.

Subp. 6. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$350;
- B. subpart 3, \$350;
- C. subpart 4, \$200; and
- D. subpart 5, \$200.

4664.0500 EMERGENCY PROCEDURES.

Subpart 1. Applicability. A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. Emergency plan. A residential hospice facility must maintain a written plan that specifies action and procedures for responding to emergency situations such as fire, severe weather, or a missing person. The plan must be developed with the assistance and advice of at least the local fire or rescue authority or any other appropriate resource persons. An accident or incident report must be maintained for at least one year.

Subp. 3. Education. The emergency plan must be clearly communicated to all staff persons during orientation. Each staff person must be knowledgeable of and must implement the emergency plan. The emergency plan must include:

- A. assignment of persons to specific tasks and responsibilities in case of an emergency situation;
- B. instructions relating to the use of alarm systems and signals;
- C. systems for notification of appropriate persons outside of the facility;
- D. information on the location of emergency equipment in the facility; and
- E. specification of evacuation routes and procedures.

Subp. 4. Emergency medical services. A residential hospice facility must have current and up to date written protocols for appropriate services for medical emergencies. Staff must implement these protocols in medical emergencies.

Subp. 5. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$100;
- B. subpart 3, \$350; and
- C. subpart 4, \$300.

4664.0510 KEYS.

Subpart 1. Keys. A hospice provider that operates a residential hospice facility must ensure that the person in charge of the residential hospice facility during each work shift has in the person's possession, at all times, keys to all locks on exits and egresses.

Subp. 2. Fines. A fine of \$100 shall be assessed for each violation of this part.

4664.0520 SMOKING.

Subpart 1. Applicability. A hospice provider that operates a residential hospice facility must ensure that the requirements of this part are met.

Subp. 2. Written policy. A residential hospice facility may allow hospice patients and visitors to smoke in the facility. If smoking is permitted, the written policy and practices must be according to part 4620.1200 and *Minnesota Statutes*, sections 144.411 to 144.417.

Subp. 3. Mechanical ventilation. Bedrooms in which smoking is permitted must be provided with adequate exhaust ventilation. The mechanical means of ventilation must provide a minimum of ten air changes per hour and be directly exhausted to the outside. A separate exhaust fan within the bedroom for this purpose is acceptable.

Subp. 4. Fines. For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$100; and
- B. subpart 3, \$200.

4664.0530 CENSUS DATA.

Subpart 1. Census data. A hospice provider that operates a residential hospice facility must maintain a separate record of admissions, discharges, deaths, and transfers of hospice patients and must ensure that these records are available for inspection by department employees for at least six years.

Subp. 2. Fines. A fine of \$100 shall be assessed for each violation of this part.

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4664.0540 HOSPICE PATIENT DEATH.

Subpart 1. County coroner. A hospice provider must notify the county coroner's office, according to county policy, of the death of any hospice patient.

Subp. 2. Personal belongings. Personal belongings of a deceased hospice patient of a residential hospice facility shall be returned to the responsible person.

Subp. 3. Fines. For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100; and

B. subpart 2, \$100.

4664.0550 PET ANIMALS.

Subpart 1. Pet animals. Pet animals may be kept on the premises of a residential hospice facility only according to the hospice provider's policies and procedures for such animals. A hospice provider's policies and procedures must comply with applicable state and local rules and regulations. A hospice provider shall maintain records for inoculations and other care for the animals as required by ordinance of the local jurisdiction in which the residential hospice facility is located.

Subp. 2. Fines. A fine of \$100 shall be assessed for each violation of this part.

4668.0002 APPLICABILITY, AUTHORITY, AND SCOPE.

This chapter implements the licensing of home care providers ~~and hospice programs~~ under *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47, under the authority of *Minnesota Statutes*, sections 144A.45, subdivision 1, ~~and 144A.4605, and 144A.48, subdivision 4.~~ Unless otherwise provided, all licensed home care providers must meet the requirements of this chapter. Provisions that apply only to specified classes of licensees are identified by those provisions. The commissioner may delegate any authority or responsibility to an agent of the department. This chapter must be read together with *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

4668.0003 DEFINITIONS.

[For text of subps 1 to 14, see M.R.]

Subp. 15. [See repealer.]

[For text of subps 16 to 17a, see M.R.]

Subp. 18. **Licensee.** "Licensee" means a home care provider that is licensed under parts 4668.0002 to 4668.0870 and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

[For text of subps 19 to 40, see M.R.]

Subp. 41. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure for compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47. Surveys include investigations of complaints.

[For text of subps 42 to 45, see M.R.]

4668.0008 SERVICES INCLUDED IN AND EXCLUDED FROM LICENSURE.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Contract services.** If a licensee contracts for a home care service with a business that is not subject to licensure under this chapter, it must require, in the contract, that the business comply with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

[For text of subps 4 to 8, see M.R.]

Subp. 9. **Exclusion of certain instructional and incidental services.** A business is not subject to *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47, and is not required to be licensed under this chapter if the business only provides services that are primarily instructional and not medical services or health-related support services.

[For text of subps 10 to 12, see M.R.]

4668.0012 LICENSURE.

Subpart 1. **License issued.** If a provider complies with the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47, the commissioner shall issue to the provider a certificate of licensure that will contain:

- A. the provider's name and address;
- B. the class of license as provided in subpart 3;
- C. the beginning and expiration dates; and
- D. a unique license number.

[For text of subp 2, see M.R.]

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Subp. 3. **Classes of licenses.** In issuing a license under this part, the commissioner shall assign a license classification according to items A and B. A provider performing only home management tasks must be registered according to *Minnesota Statutes*, section 144A.461, and need not obtain a home care license.

A. A provider must apply for one of the classes of the home care license listed in subitems (1) to ~~(6)~~ (5).

(1) Class A, or professional home care agency license. Under this license, a provider may provide all home care services in a place of residence, including a residential center, at least one of which is nursing, physical therapy, speech therapy, respiratory therapy, occupational therapy, nutritional services, medical social services, home health aide tasks, or the provision of medical supplies and equipment when accompanied by the provision of a home care service.

(2) Class B, or paraprofessional agency license. Under this license, a provider may perform home care aide tasks and home management tasks, as provided by parts 4668.0110 and 4668.0120.

(3) Class C, or individual paraprofessional license. Under this license, a provider may perform home health aide, home care aide, and home management tasks.

~~(4) Class D, or hospice program license. Under this license, a provider may provide hospice services, as provided by Minnesota Statutes, section 144A.48.~~

~~(5)~~ (5) Class E, or assisted living programs license. Under this license, a provider may only provide assisted living services to residents of a residential center.

~~(6)~~ (5) Assisted living home care provider license. Under this license, a provider may provide assisted living home care services solely for residents of one or more registered housing with services establishments, as provided by *Minnesota Statutes*, section 144A.4605.

B. If a provider meets the requirements of more than one license class, the commissioner shall issue to the provider a separate license for each applicable class of home care licensure.

Subp. 4. **Applicability of rules to classes.**

A. A class A licensee must comply with parts 4668.0002 to 4668.0180, and 4668.0218 to 4668.0240, except that one certified for Medicare as a home health agency under *Code of Federal Regulations*, title 42, part 484, need not comply with the requirements listed in part 4668.0180, subpart 10.

B. A class B licensee must comply with parts 4668.0002 to 4668.0080, 4668.0110 to 4668.0170, 4668.0190, and 4668.0218 to 4668.0240.

C. A class C licensee must comply with parts 4668.0002 to 4668.0035, 4668.0050 to 4668.0065, 4668.0075 to 4668.0170, 4668.0200, and 4668.0218 to 4668.0240.

~~D. A class D licensee must comply with parts 4668.0002 to 4668.0170, 4668.0210, and 4668.0218 to 4668.0240, except that one certified for Medicare as a hospice program under Code of Federal Regulations, title 42, part 418, need not comply with the requirements listed in part 4668.0210, subpart 22.~~

~~E.~~ A class E licensee must comply with parts 4668.0002 to 4668.0080, 4668.0110 to 4668.0170, 4668.0215, and 4668.0218 to 4668.0240.

~~F. E.~~ An assisted living home care provider licensee must comply with parts 4668.0002 to 4668.0050, 4668.0065, 4668.0070, 4668.0170, 4668.0218 to 4668.0240, and 4668.0800 to 4668.0870.

Subp. 5. **New license.** A license shall be issued to an applicant that is not currently licensed if the applicant completes the application, pays the fee in full, and complies with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47. A license is effective for one year after the date the license is issued.

[For text of subp 6, see M.R.]

Subp. 7. **Agent.** Each application for a home care provider license or for renewal of a home care provider license shall designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner of health on all matters provided for in this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47; and

B. upon whom all notices and orders shall be served, and who is authorized to accept service of notices and orders on behalf of the licensee, in proceedings under this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

The designation of one or more persons under this subpart shall not affect the legal responsibility of any other owner or managerial official under this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

[For text of subps 8 and 9, see M.R.]

Subp. 10. **Prelicensing survey.** Before granting a license, ~~other than a provisional license under Minnesota Statutes, section 144A.48;~~ the commissioner may investigate the applicant for compliance with this chapter and *Minnesota Statutes*, sections

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144A.43 to ~~144A.48~~ 144A.47.

Subp. 11. **Denial of license.** A license shall be denied if:

A. the applicant; an owner of the applicant, individually or as an owner of another home care provider; or another home care provider of which an owner of the applicant also was or is an owner; has ever been issued a correction order for failing to assist its clients, in violation of part 4668.0050, subpart 2, upon the licensee's decision to cease doing business as a home care provider;

B. the applicant is not in compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;

C. the applicant is disqualified under *Minnesota Statutes*, sections 144.057 and 245A.04;

D. the applicant or an owner or managerial official has been unsuccessful in having a disqualification under *Minnesota Statutes*, section 144.057 or 245A.04, set aside; or

E. the commissioner determines that an owner or managerial official, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

[For text of subp 12, see M.R.]

Subp. 13. **License renewals.** Except as provided in subpart 14 or 15, a license will be renewed for a period of one year if the licensee satisfies items A to C. The licensee must:

A. submit an application for renewal on forms provided by the commissioner at least 30 days before expiration of the license;

B. submit the renewal fee, in the amount provided by subpart 18; and

C. comply with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

Subp. 14. **Conditional license.** If a licensee is not in full compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47, at the time of expiration of its license, and the violations do not warrant denial of renewal of the license, the commissioner shall issue a license for a limited period conditioned on the licensee achieving full compliance within the term of the license or the term of any correction orders.

Subp. 15. **Suspension, revocation, or denial of renewal of license.** The commissioner may deny renewal of a license, or may suspend, revoke, or make conditional a license, if the licensee, or an owner or managerial official of the licensee:

A. is in violation, or during the term of the license has violated, any of the requirements of this chapter or *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;

B. permits, aids, or abets the commission of any illegal act in the provision of home care;

C. performs any act detrimental to the welfare of a client;

D. obtained the license by fraud or misrepresentation;

E. knowingly made or makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter;

F. denies representatives of the commissioner access to any part of the provider, its books, records, or files, or employees;

G. interferes with or impedes a representative of the commissioner in contacting the provider's clients;

H. interferes with or impedes a representative of the commissioner in the enforcement of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;

I. destroys or makes unavailable any records or other evidence relating to the licensee's compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;

J. refuses to initiate a background study under *Minnesota Statutes*, section 144.057 or 245A.04; or

K. has failed to timely pay any fines assessed under part 4668.0230 or 4668.0800, subpart 6.

[For text of subps 16 to 18, see M.R.]

4668.0050 ACCEPTANCE, RETENTION, DISCONTINUATION OF SERVICES, AND DISCHARGE OF CLIENTS.

Subpart 1. **Acceptance of clients.** No licensee may accept a person as a client unless the licensee has staff, sufficient in qualifications and numbers, to adequately provide the services agreed to in the service agreement, under part 4668.0140 for class A, B, C, ~~D~~, and E licensees, or the service plan, under part 4668.0815, for assisted living home care provider licensees.

[For text of subp 2, see M.R.]

4668.0060 ADMINISTRATION.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Availability of contact person.** Every class A, class B, ~~class D~~, or class E licensee that provides home health aide or home care aide tasks, must have a contact person available for consultation whenever a paraprofessional is performing home health aide or home care aide tasks for a client. The contact person must be available to the paraprofessional in person, by telephone, or

by other means.

4668.0075 ORIENTATION TO HOME CARE REQUIREMENTS.

Subpart 1. **Orientation.** Every individual applicant for a license, and every person who provides direct care, supervision of direct care, or management of services for a licensee, shall complete an orientation to home care requirements before providing home care services to clients. This orientation may be incorporated into the training required of paraprofessionals under part 4668.0130, ~~or of persons providing volunteer services to a hospice under part 4668.0210, subpart 15.~~ This orientation need only be completed once.

Subp. 2. **Content.** The orientation required by subpart 1 must contain the following topics:

- A. an overview of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;
- B. handling of emergencies and use of emergency services;
- C. reporting the maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557;
- D. home care bill of rights;
- E. handling of clients' complaints and reporting of complaints to the Office of Health Facility Complaints; and
- F. services of the ombudsman for older Minnesotans.

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

4668.0100 HOME HEALTH AIDE TASKS.

Subpart 1. **Home health aide tasks.** For a class A, ~~or C, or D~~ licensee, a registered nurse may delegate medical or nursing services as tasks or a therapist may assign therapy services as tasks only to a person who satisfies the requirements of subpart 5. These delegated or assigned tasks, as set forth in this part, include home care aide tasks as set forth in part 4668.0110. Class A ~~or D~~ licensees providing home care aide tasks must satisfy the training and supervision requirements of this part, and not part 4668.0110. These tasks include:

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

[For text of subs 2 to 6, see M.R.]

Subp. 7. **Documentation.** Class A ~~and class D~~ licensees shall verify that persons employed or contracted by the licensees to perform home health aide tasks have satisfied the requirements of this part and shall retain documentation in the personnel records. Persons who perform home health aide tasks must provide documentation to the employing or contracting licensees of satisfying this part. Class C licensees shall retain documentation of satisfying this part.

[For text of subs 8 and 9, see M.R.]

4668.0180 CLASS A PROVIDER, PROFESSIONAL HOME CARE AGENCY.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Scope of services.** The licensee may provide all home care services, except that the licensee may provide a hospice program only if licensed as a hospice program under part ~~4668.0012, subpart 3~~ 4664.0010, as provided by *Minnesota Statutes*, section ~~144A.48~~ 144A.753, subdivision 5 1.

[For text of subs 4 to 10, see M.R.]

4668.0220 SURVEYS AND INVESTIGATIONS.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Biennial surveys.** A licensee that has been licensed for at least two consecutive years and that has been in substantial compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47, and has had no serious violations in that period, may be surveyed every second license term rather than during each license term.

Subp. 4. **Complaint investigations.** Upon receiving information that a licensee may be violating or may have violated a requirement of this chapter or *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47, the commissioner shall investigate the complaint.

[For text of subs 5 to 10, see M.R.]

4668.0230 FINES FOR UNCORRECTED VIOLATIONS.

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

Subp. 2. **Fines for license classes.** Class A, class B, ~~class D~~, and class E licensees shall be assessed fines at 100 percent of the amounts provided in subpart 3. Class C licensees shall be assessed fines at 25 percent of the amounts provided in subpart 3.

Subp. 3. **Schedule of fines for violations of statutory provisions.** For each violation of a statutory provision subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the following fines shall be assessed for the respective provision that was violated in *Minnesota Statutes*:

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

Q. section 144A.44, subdivision 1, clause (17), \$500; and
R. section 144A.44, subdivision 2, \$250;
~~S. section 144A.48, subdivision 2, clause (1), \$100;~~
~~T. section 144A.48, subdivision 2, clause (2), \$300;~~
~~U. section 144A.48, subdivision 2, clause (3), \$350;~~
~~V. section 144A.48, subdivision 2, clause (4), \$350;~~
~~W. section 144A.48, subdivision 2, clause (5), \$500;~~
~~X. section 144A.48, subdivision 2, clause (6), \$100;~~
~~Y. section 144A.48, subdivision 2, clause (7), \$300;~~
~~Z. section 144A.48, subdivision 2, clause (8), \$50; and~~
~~AA. section 144A.48, subdivision 2, clause (9), \$500.~~

[For text of subp 4, see M.R.]

Subp. 5. **Schedule of fines for violations of rules.** For each violation of a rule provision subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the following fines shall be assessed for the respective rule that was violated:

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

~~IIII. part 4668.0210, subpart 3, \$100;~~
~~JJJJ. part 4668.0210, subpart 4, \$100;~~
~~KKKK. part 4668.0210, subpart 5, \$100;~~
~~LLLL. part 4668.0210, subpart 6, \$100;~~
~~MMMM. part 4668.0210, subpart 7, \$100;~~
~~NNNN. part 4668.0210, subpart 8, \$350;~~
~~OOOO. part 4668.0210, subpart 9, \$300;~~
~~PPPP. part 4668.0210, subpart 10, \$300;~~
~~QQQQ. part 4668.0210, subpart 11, \$300;~~
~~RRRR. part 4668.0210, subpart 12, \$350;~~
~~SSSS. part 4668.0210, subpart 13, \$100;~~
~~TTTT. part 4668.0210, subpart 15, \$350;~~
~~UUUU. part 4668.0210, subpart 16, \$50;~~
~~VVVV. part 4668.0210, subpart 17, \$300;~~
~~WWWW. part 4668.0210, subpart 18, \$300;~~
~~XXXX. part 4668.0210, subpart 20, \$350;~~
~~YYYY. part 4668.0210, subpart 21, the first sentence, \$350;~~
~~ZZZZ. part 4668.0210, subpart 21, the second sentence, \$50;~~
~~AAAAA. part 4668.0220, subpart 6, \$500; and~~
~~BBBBB. JJJJ. part 4668.0220, subpart 8, \$500.~~

4668.0805 ORIENTATION TO HOME CARE REQUIREMENTS.

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

Subp. 2. **Content.** The orientation required under subpart 1 must contain the following topics:

- A. an overview of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;
 - B. handling emergencies and using emergency services;
 - C. reporting the maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557;
 - D. the home care bill of rights, *Minnesota Statutes*, section 144A.44;
 - E. handling of clients' complaints and how clients and staff may report complaints to the Office of Health Facility Complaints;
- and
- F. the services of the ombudsman for older Minnesotans.

[For text of subps 3 to 6, see M.R.]

4668.0840 TRAINING AND COMPETENCY EVALUATION FOR UNLICENSED PERSONNEL.

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

Subp. 2. **Scope of training course and instructor.** The training required under part 4668.0835, subpart 2, must:

- A. include each assisted living home care service offered to clients that the unlicensed person will perform, taught by a registered nurse with experience or training in the subject being taught;
- B. include the core training requirements specified in subpart 3;
- C. include the competency evaluation required under subpart 4; and
- D. use a curriculum that meets the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

Subp. 3. **Core training of unlicensed personnel.**

A. An unlicensed person performing assisted living home care services must successfully complete training or demonstrate competency in the topics described in subitems (1) to (12). The required topics are:

- (1) an overview of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47;
- (2) recognizing and handling emergencies and using emergency services;
- (3) reporting maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557;
- (4) the home care bill of rights, *Minnesota Statutes*, section 144A.44;
- (5) handling clients' complaints and reporting complaints to the Office of Health Facility Complaints;
- (6) the services of the ombudsman for older Minnesotans;
- (7) communication skills;
- (8) observing, reporting, and documenting client status and the care or services provided;
- (9) basic infection control;
- (10) maintaining a clean, safe, and healthy environment;
- (11) basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional; and
- (12) physical, emotional, and developmental needs of clients, and ways to work with clients who have problems in these areas, including respect for the client, the client's property, and the client's family.

B. The core training of unlicensed personnel must be taught by a registered nurse with experience or training in home care, except that item A, subitems (1) to (7), may be taught by another instructor under the direction of the registered nurse.

C. The core training curriculum must meet the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

Subp. 4. **Competency evaluation.**

A. The competency evaluation tests required under part 4668.0835, subpart 2, items A and B, must meet the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.48~~ 144A.47.

B. A registered nurse must complete and document each competency evaluation.

C. To qualify to perform assisted living home care services, a person must demonstrate competency by successfully completing:

- (1) a written, oral, or practical test of the topics in subpart 3; and
- (2) a written, oral, or practical test of all assisted living home care provider services that the person will perform.

[For text of subs 5 and 6, see M.R.]

4669.0001 AUTHORITY.

This chapter establishes fees for the licensing of home care ~~and hospice~~ providers, as required by *Minnesota Statutes*, section 144A.46, subdivision 1, paragraph (c), and part 4668.0012, subpart 18.

4669.0010 DEFINITIONS.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Provider.** "Provider" means a home care provider required to be licensed under *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.47.

[For text of subp 4, see M.R.]

4669.0040 FEE LIMITATION.

A provider is subject to one license fee, regardless of the number of distinct programs through which home care services are provided unless the provider operates under multiple units as set forth in part 4668.0012, subpart 2. ~~A provider issued a class A and class D license under part 4668.0012, subpart 3, item B, shall pay one license fee.~~ The fee shall be based on the total revenue of all home care services.

4669.0050 FEE SCHEDULE.

Subpart 1. **Fees for classes A, ~~and B, and D.~~** The amount of the fee for class A; ~~and class B, and class D~~ providers; shall be determined according to the following schedule:

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

[For text of subps 2 to 4, see M.R.]

REPEALER. *Minnesota Rules*, parts 4668.0003, subpart 15; and 4668.0210, are repealed.

EFFECTIVE DATE. *Minnesota Rules*, parts 4664.0002 to 4664.0550; the amendments to *Minnesota Rules*, parts 4668.0002 to 4668.0840 and 4669.0001 to 4669.0050; and the repealer, are effective 90 days after the publication of the notice of adoption.

INCORPORATING:

Part 4664.0290, subpart 1: “Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Facilities, 1994,” Morbidity and Mortality Weekly Report (MMWR), Recommendations and Reports, Volume 43, No. RR-13 (October 28, 1994, and as subsequently amended). The guidelines, and any subsequent amendments to the guidelines, are incorporated by reference, are subject to frequent change, and are available on the CDC Web site at www.cdc.gov/nchstp/tb.

Part 4664.0370, subpart 1, item A: Uniform Building Code as incorporated by reference under *Minnesota Rules*, chapter 1305.

Part 4664.0380, subpart 2: NFPA 101, Life Safety Code (1997); NFPA 70, National Electrical Code (1996); NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes (1999); and NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height (1999), all of which are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, and through the Minitex interlibrary loan system. They are subject to frequent change.

Part 4664.470, subpart 1: “Guideline for Isolation Precautions in Hospitals” (1996, and as subsequently amended). The recommendations, and subsequent amendments to the recommendations, are incorporated by reference. The recommendations are available on the CDC Web site at: www.cdc.gov/ncidod and are subject to frequent change.

Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* § 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can only be used where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning or effect the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years from the date of publication of the rule in the *State Register*. Rules adopted, amended or repealed under clause (3) or (4) are effective upon publication in the *State Register*.

The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

Department of Education

Adopted Exempt Rules Relating to Supplemental Educational Services Providers

3512.5300 SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDERS.

Subpart 1. Provider requirements. A provider of supplemental educational services must be a nonprofit entity, a for-profit entity, or a local educational agency, and may include public or private schools, public or private postsecondary institutions, and faith-based organizations. A provider:

A. has a tutorial program with a demonstrated record of effectiveness in increasing student academic achievement;

B. can document that its instructional strategies are of high quality, based upon research, and designed to increase student academic achievement;

C. is capable of providing supplemental educational services that are aligned with state academic standards and demonstrate an understanding of the instructional program of the local educational agency; and

D. is financially sound.

Subp. 2. Application.

A. Providers applying to the commissioner of education must complete a written application provided by the commissioner which must include that the provider will:

(1) provide parents of children receiving supplemental education services under this part and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format, and to the extent practicable, a language that the parents can understand;

(2) ensure that the instruction provided and content used by the provider are aligned with state academic standards and demonstrate an understanding of the instruction provided and content used by the local educational agency;

(3) meet all applicable federal, state, and local health, safety, and civil rights laws;

(4) ensure that all instruction and content under this part are secular, neutral, and nonideological; and

(5) meet the federal requirement that supplemental educational services are delivered in addition to instruction provided during the school day.

B. A potential provider also must inform the commissioner of education of:

(1) the subject areas in which the provider plans to provide instruction, in addition to the required areas of language arts, mathematics, or both;

(2) the provider's approach or model of instruction;

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

Exempt Rules

(3) how a standard tutoring session will be structured, in terms of number of minutes and times per week;

(4) how student needs are assessed or diagnosed and how an instructional program is prescribed based on the student's individual needs;

(5) how services offered will help academically at-risk students improve their achievement;

(6) the specific strategies the provider uses to work with parents and families;

(7) the facilities, equipment, and materials used and supplied by the provider and used and supplied by the student; and

(8) the recruitment and development of staff to deliver the high-quality program required by the No Child Left Behind Act of 2001, United States Code, title 20, section 6301, et seq.

Subp. 3. Application review and approval.

A. The commissioner of education shall approve applications based on evidence of:

(1) a high-quality research base;

(2) program effectiveness in increasing student achievement;

(3) alignment with Minnesota academic standards in language arts, mathematics, or both, and a demonstrated understanding of the instructional program of the local educational agency;

(4) capability and willingness to provide educational services for children with disabilities consistent with the child's individualized education program and with the need for accommodations for the child's disabilities;

(5) evaluation of student progress;

(6) communication with parents and school staff;

(7) quality of instructional staff;

(8) financial and organizational capacity; and

(9) compliance with health, safety, and civil rights laws, rules, and regulations.

B. An application must be reviewed and scored by a team of three individuals. Reviewers will be selected from the Department of Education, school districts, Title I programs, and public and private organizations that have experience in the area of providing supplemental services.

C. A quality threshold score of 70 points out of 100 possible points on the application is required for a provider to be on the state's approved list. To ensure the merits of each applicant's responses are discussed, reviewers must reach consensus within three points on each section.

D. A successful applicant shall remain on the approved list for three school years, beginning with the next school year after the application is reviewed, unless the provider does not meet the requirements under subpart 2 or the provider requests to be removed from the list. A provider whose application is not approved may resubmit an application in the next round of applications.

E. The application and approval process must be repeated annually, with the timeline to be modified by the commissioner of education if warranted by the need for additional providers.

Commissioner's Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners' orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Department of Transportation

Order #: 87349 - Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minnesota Statutes* § 169.825

Whereas, the Commissioner of Transportation has made his Order No. 80000, dated March 10, 1994, which order has been amended by Orders No's. 80212, 80246, 80580, 80861, 80881, 81000, 81092, 81371, 81511, 81557, 81641, 82955, 83138, 83536, 83616, 83720, 84056, 84222, 84232, 84256, 84353, 84354, 84439, 84532, 84902, 85225, 85246, 85668, 85784, 85922, 85932, 86170, 86468, and 86931 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under *Minnesota Statutes* § 169.825, and

Whereas, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to

Commissioner's Orders

carry the gross weights allowed under *Minnesota Statutes* § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 80000 is further amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

COUNTY ROADS

NICOLLET COUNTY

- C.S.A.H. 1 FROM C.S.A.H. 16 to C.S.A.H. 38 (12 MONTH)
- C.S.A.H. 5 FROM C.S.A.H. 16 TO TH - MN15 (12 MONTH)
- C.S.A.H. 10 FROM C.S.A.H. 15 TO C.S.A.H. 1 (12 MONTH)
- C.S.A.H. 15 FROM C.S.A.H. 10 TO TH - MN111 (12 MONTH)
- C.S.A.H. 16 FROM C.S.A.H. 5 to C.S.A.H. 1 (12 MONTH)
- C.S.A.H. 17 FROM TH - US14 to TH - MN99 (12 MONTH)
- C.S.A.H. 36 IN THE CITY OF ST. PETER FROM TH - US169 TO CENTER ST (12 MONTH)

Dated this 28 day of August, 2003

Carol Molnau
Lt. Governor/Commissioner

Revenue Notices

The Department of Revenue began issuing revenue notices in July of 1991. Revenue notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue revenue notices is found in *Minnesota Statutes* § 270.0604

Department of Revenue

Revenue Notice # 03-09: MinnesotaCare/Sales Tax - Massage Therapy by Licensed/Registered Health Care Providers

This revenue notice modifies Revenue Notice # 94-11 as it applies to massage services provided by a massage therapist who is also a licensed or registered health care provider. This revenue notice also supplements Revenue Notice # 02-08.

This notice clarifies that massage therapy provided by licensed or registered health care providers is subject to the MinnesotaCare tax or the Minnesota sales tax. A massage therapist, who is also a licensed or registered health care provider, collects the sales tax and does not pay the MinnesotaCare tax if the massage is not for the treatment of an illness, injury, or disease. If the massage is provided as treatment of an illness, injury, or disease, it is subject to the MinnesotaCare tax. All massage services are presumed to be subject to sales tax unless the massage therapist can show that the service was for treatment of illness, injury or disease.

Massage therapy is considered to be for treatment of an illness, injury, or disease if: (1) it is provided upon written referral by a licensed health care provider or a licensed health care facility; (2) the massage is provided within the scope of the health care provider's license or registration; or (3) the massage is provided by an employee of a licensed or registered health care provider.

Examples

- A massage therapist, who is also a registered physical therapist, provides massage therapy upon a written referral from a physician. The service is provided for the treatment of illness, injury, or disease and is thus subject to the MinnesotaCare tax and not the sales tax.
- A nurse provides massage therapy services in his nursing practice (i.e., within the scope of his license). The service is subject to the MinnesotaCare tax and not the sales tax.
- A massage therapist who is also a nurse provides massage therapy services at a beauty salon. The service is not provided upon a written referral by a licensed health care provider and it is not provided within the scope of the nurse's license. The service is subject to sales tax and not the MinnesotaCare tax.
- A massage therapist who is a nurse is employed by an orthopedic physician. The service is subject to the MinnesotaCare tax because all patient services provided by a physician or a physician's employees are subject to the MinnesotaCare tax and not the sales tax.
- A massage therapist who is not licensed or registered as a health care provider provides massage services upon a written referral by a physician for the treatment of an injury. The service is neither subject to the MinnesotaCare tax, nor the sales tax.

Raymond R. Krause, Assistant Commissioner

Revenue Notices

Department of Revenue

Revenue Notice # 03-10: Sales and Use Tax - Telecommunications Services

This revenue notice replaces Revenue Notice # 91-18, which is hereby revoked.

Telecommunications services are taxable under *Minnesota Statutes*, section 297A.61, subdivision 3(i).

Besides telephone and cable services, other services that are telecommunications services include, but are not limited to, fax, teleconference, telegraph, teletype, digital subscriber line (dsl), direct satellite and music services, and automated or partially automated answering services. Telecommunications services include those provided by means of coin operated telephones or similar devices. Information and online computer services such as electronic publishing, web-hosting, end-user 900 number services, electronic mail services, and electronic bulletin board services are services that are not taxed as telecommunications services.

All charges for telecommunications service, including optional and associated services, must be included in the sales price when determining the amount subject to sales tax, except for separately stated charges for 911 emergency system, telephone assistance plan (TAP), telecommunications access for communications impaired persons (TACIP), and federal excise tax imposed directly on the consumer.

Internet

Telephone lines that are purchased by consumers to acquire access to the internet are telecommunications services and are not internet access charges that Minnesota is precluded from taxing under *Public Law* No. 107-17, Internet Tax Non-Discrimination Act. Telephone lines that are used by an internet service provider to provide internet service to their subscribers cannot be purchased exempt for the purpose of resale.

Hotel/Motel Telephone Charges

Charges by hotels and other lodging establishments to guests for access to telephone service are telecommunications services that are subject to tax under *Minnesota Statutes*, section 297A.61, subdivision 24(b). Charges to a hotel or motel guest, for the actual cost of telephone services, are not taxable if the charges are separately stated on the guest's bill.

Many hotels use "call accounting systems" to track and determine the amount to charge guests for long distance telephone calls. Using these systems, the hotel does not know how much the actual telephone service costs until receiving the bill from the telephone company the following month. In this situation, the hotel must charge sales tax on the total amount billed to the hotel guests for the long distance telephone service. The hotel must also continue to pay sales tax on purchases of telephone service from the telephone company. However, the hotel may take a deduction from gross sales reported on their sales and use tax return for the amount billed to the hotel by the telephone company for the actual cost of long distance calls made by hotel guests. This practice is only allowed when the hotel can distinguish between telephone calls billed to guests and the hotel's own administrative costs for telephone service.

Bundled Services

When nontaxable elements of a charge for telecommunications services are bundled with taxable elements in one sales price then the entire amount of the sales price is subject to tax. However, see Revenue Notice # 02-09: Sales and Use Tax - Internet Access Charges, for the department's position on the application of the sales and use tax when internet access charges are included in a bundled charge.

Telecommunications Equipment

Minnesota Statutes, section 297A.68, subdivision 35, provides an exemption for telecommunications machinery and equipment purchased or leased for use directly by a telecommunications service provider primarily in the provision of telecommunications services that are ultimately to be sold at retail.

- Cable television and telephone service providers, and direct satellite distributors generally qualify for the exemption if they sell their telecommunications services at retail.
- Radio and television stations, and others that provide free telecommunications services do not qualify for this exemption because they are not selling their telecommunications services at retail.
- Hotels, motels, and other establishments that do not primarily provide telecommunications services do not qualify for the exemption.
- The exemption generally does not apply to the purchase of machinery and equipment by an Internet Service Provider, but this equipment may qualify for the capital equipment exemption for online data retrieval provided for in *Minnesota Statutes*, section 297A.68, subdivision 5. See Revenue Notice # 02-14: Sales and Use Tax - Exemption for Purchases of Telecommunications Equipment - Internet Service Providers.

Raymond R. Krause, Assistant Commissioner

Official Notices

Pursuant to Minnesota Statutes § 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The State Register also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Minnesota Comprehensive Health Association

Notice of Meeting of the Finance Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Finance Committee will be held at 1:00 p.m. on Monday, September 15, 2003. The meeting will take place at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 593-9609.

Minnesota Comprehensive Health Association

Notice of Meeting of the Public Policy Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Public Policy Committee will be held at 10:00 a.m. on Monday, September 15, 2003. The meeting will take place at the MCHA executive office located at 5775 Wayzata Blvd., Suite 900, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 593-9609.

Department of Human Services

Chemical Health Division

Notice of Public Comment on the Federal Substance Abuse Prevention and Treatment Block Grant and the Availability of a Statement Describing the Intended Use of Funds for Federal Fiscal Year 2004

NOTICE IS HEREBY GIVEN that the Department of Human Services, Chemical Health Division, is seeking public comment on the use of the Federal Substance Abuse Prevention and Treatment Block Grant.

Notice is also given that the Department of Human Services has available a draft Description of Intended Use for funds available to the State of Minnesota from the Federal Fiscal Year 2004 Substance Abuse Prevention and Treatment Block Grant. This description is being made available to the public for comment in accord with Title XIX, Part B of the Public Health Services Act, *Public Law 102-321*.

Copies of the draft Alcohol and Drug Abuse Plan are available at: <http://www.dhs.state.mn.us/contcare/chemicalhealth/default.htm>

For further information about the Substance Abuse Prevention and Treatment Block Grant, contact Wayne Raske, Chemical Health Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3823, **phone** (651) 582-1849, **email** wayne.raske@state.mn.us.

All interested or affected persons and organizations are invited to submit comments. Comments on the proposed plan may be directed to the contact person listed above.

Metropolitan Council

2004 Disadvantaged Business Enterprise Program (DBE) Goal

The Metropolitan Council's Disadvantaged Business Enterprise Program (DBE) and goal request for fiscal year 2004 has been submitted to the Federal Transportation Administration (FTA) pursuant to part 26 of the *Code of Federal Regulations*, Chapter 49. When approved the Council's overall DBE goal of 14% for DOT-assisted contracts will be effective from October 2, 2003 through September 30, 2004. This goal and a description of how it was set is available for inspection during normal business hours at the Council offices for 45 days from the date of this notice. Comments, which are for information purposes only, may be sent to the Director, Office of Diversity and Equal Opportunity, Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St Paul, MN 55101; or the U.S. Department of Transportation, 400 7th St., SW, Washington, DC 20590.

Official Notices

Public Employees Retirement Association

Notice of Meeting of the Board of Trustees

A meeting of the Legislative Committee will be held on Thursday, September 25, 2003, at 9:30 a.m. in the PERA offices, 60 Empire Drive, Room 117, Saint Paul, Minnesota.

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Health

Health Promotion and Chronic Disease Division

Request for Proposals for the Minnesota Poison Control System - Up to \$1,371,111 per Year

The Minnesota Department of Health (MDH) is soliciting proposals for the operation of a poison control system in Minnesota. This project is specifically designed to serve the needs of the citizens of the state for information relating to the prompt identification and appropriate home management or referral of cases of human poisoning.

MDH is seeking proposals for a two-year time period (January 1, 2004 - December 31, 2005) for three program components: call response, professional education, and public awareness. The department may award all components to one applicant or may award the components to different applicants. Eligible applicants are for-profit and nonprofit entities and units of government.

To be considered for funding, proposals must be received by 4:00 p.m. CDT, Monday, October 20, 2003 at the Minnesota Department of Health, 85 East Seventh Place, Suite 400, St. Paul, MN 55101. If proposals are sent by U.S. mail or other delivery service, it is wholly the responsibility of the proposer to ensure that the proposal package is properly addressed and physically delivered on time. Late proposals will not be considered.

A copy of the full Request for Proposals may be obtained at <http://www.health.state.mn.us/> Scroll to "Announcements" and then to "Grants, Loans, Comment Periods" and click on "Request for Proposals: Minnesota Poison Control System."

A copy can also be obtained by contacting:

Tessa Sanchez
Center for Health Promotion
Minnesota Department of Health
P.O. Box 64882
St. Paul, MN 55164-0882
Phone: (651) 281-9784
E-mail: tessa.sanchez@health.state.mn.us

Department of Human Services

Disability Services Division

Request for Proposals for Comprehensive, Seamless Information, Referral and Assistance Services for People with Disabilities and Chronic Illnesses Through the Operation of a Disability Linkage Line Call Center

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services (DHS) requires the services of Responder(s) to expand the information and assistance infrastructure for people with disabilities by providing specialty information, referral and assistance services across all disability groups through a statewide network called Disability Linkage Line (DLL).

The goal of this initiative is to develop a coordinated, statewide network of Minnesota agencies that will deliver seamless and

State Grants & Loans

timely access to the information and help people with disabilities and chronic illness (or their representatives or caregivers) to make informed decisions and successfully connect to community resources. DHS has divided the state into four regions for the provision of DLL services; north, central, metro and south. DHS intends to award grants to up to four qualified responders to provide DLL statewide services. The total funding available for **all** grant awards is up to \$636,000 over two years.

Responder(s) should be willing to build off of their current IR&A system for the provision of DLL services. DLL providers will work in strong collaboration with each other, DHS, the Senior LinkAge Line®, other existing information and referral systems, and other statewide and local partners, to enhance the effective and consistent delivery of disability related information and assistance services. Disability Linkage Line is not to replace existing information services but rather create seamless access to those services for the consumer. DHS will provide and maintain the information database that will be used by Disability Linkage Line providers.

This is a summary of the RFP; to obtain the full RFP, or if you need the RFP in an alternative format, such as Braille, large print, or audiotape, contact Marsha Nadeau at (651) 582-1915 or marsha.nadeau@state.mn.us. The RFP is also available on the DHS public web-site <http://www.dhs.state.mn.us>.

Organizations are responsible for all costs associated with the preparation, delivery, and presentation of materials in response to this RFP. Organizations must not communicate with any DHS staff concerning this RFP except as provided for as in this document as follows. Any questions, concerns, or communications should be directed to:

Lesli Kerkhoff
Minnesota Department of Human Services
Disability Services Division
Main Reception Desk
444 Lafayette Road
St. Paul, MN 55155-3872
Phone: (651) 634-2281
Fax: (651) 582-1808
Email: Lesli.Kerkhoff@state.mn.us

All substantive questions concerning this RFP must be put in writing and received by Ms. Kerkhoff by September 16th, 2003. Written responses for all questions will be mailed to all respective responders no later than September 19th, 2003.

To be considered, proposals must be delivered in person or by US Mail to the address listed above at the Department of Human Services no later than 3:00 p.m. Central Daylight time on September 29th, 2003.

While it is the DHS' intent to enter into a contract with a qualified responder for the provision of the professional and technical services set forth herein, this RFP does not obligate DHS to complete the RFP process or to enter into a contract. DHS reserves the right to cancel this RFP at any time and for any reason.

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) website. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD website at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Colleges and Universities, Minnesota State (MnSCU)

Hibbing Community College

Request for Bids on the Foundry and Pottery Building Project

NOTICE IS HEREBY GIVEN that sealed bids for foundry and pottery building work will be addressed and delivered to the Business Office - Room M140, Hibbing Community College, 1515 East 25th Street, Hibbing, MN 55746.

BID DATE: September 30, 2003

BID TIME: 2:00 pm Local Time

State Contracts

All bids must be prepared on the form provided by the Architect and submitted in accordance with the Instructions To Bidders (Section 00500). Bids are to be addressed to Ron Blakesley, Vice President of Administrative Services, at the aforesaid address and are to be in a sealed opaque envelope conspicuously marked on the outside identifying the project name.

Plans, Specifications and Proposal Forms as prepared by Architectural Resources, Inc., 704 East Howard Street, Hibbing, MN 55746, (218) 263-6868, are available at the Architect's office upon a deposit of \$100.00 which will be refunded only to contractors who submit bids and return same within ten working days of bid date. Plans and Specifications may be reviewed at the offices of the Architect; the Owner; and at the Builders Exchanges in Duluth, Hibbing, Minneapolis, St. Paul, MN; Dodge Scan in Minneapolis, MN; and Construction Bulletin in New Hope, MN.

Each bid must be accompanied by a certified check, cashier's check, or bidder's bond in the amount of five percent (5%) of the bid, payable to the Owner; as provided in the specifications, said check and the amount thereof or the amount of the bidder's bond to be forfeited as liquidated damages if the bidder furnishing the same neglects or refuses to promptly carry out said bid or enter into contract with the State of Minnesota.

No bids may be withdrawn within thirty (30) days from the scheduled closing time for receiving bids.

The right is reserved to reject any or all bids or parts of bids and to waive informalities therein, and to award the contract to other than the lowest bidder if in their discretion the interests of the Owner will be best served thereby.

Hibbing Community College
1515 East 25th Street
Hibbing, MN 55746

Colleges and Universities, Minnesota State (MnSCU)

Winona State University

Request for Sealed Proposals for Outreach Development Services

NOTICE IS HEREBY GIVEN that the Winona State University will receive sealed proposals for Consulting Services for Outreach Development at Winona State University. Proposal specifications will be available September 8, 2003 from the Winona State University Purchasing Department, P.O. Box 5838, 205 Somsen Hall, Winona, MN 55987 or by calling (507) 457-5067 or (507) 457-5419.

There will be an information meeting for interested vendors on September 16, 2003 at 1:00 p.m. in the WSU Library Room 109.

Sealed proposals must be received by Sandra Schmitt at P.O. Box 5838, or at 175 W. Mark St., Somsen 205G, Business Office, Winona State University, Winona MN 55987 by 3:00 p.m. September 30, 2003

Winona State University reserves the right to reject any or all proposals and to waive any irregularities or informalities in proposals received.

Minnesota Higher Education Services Office

Notice of Availability of Contract for Financial Advisory Services

The Minnesota Higher Education Services Office (MHESO) is requesting proposals for the purpose of providing fiscal consultation regarding funding for its supplemental student loan programs, to assist in the preparation of documents necessary to issue revenue bonds or other financing mechanisms as appropriate, and to prepare rebate calculations on outstanding bond issues.

Work is proposed to start after November 1, 2003.

A complete Request for Proposal will be available by mail from this office through September 26, 2003. ***A written request (by direct mail or fax) is required to receive the Request for Proposal.*** After September 26, 2003, the Request for Proposal must be picked up in person.

The Request for Proposal can be obtained from:

Timothy Geraghty
Director of Financial Services
MHESO
1450 Energy Park Drive Suite 350
St. Paul, MN 55108-5227
Fax: (651) 642-0675

Proposals submitted in response to the Request for Proposal in this advertisement must be received at the address above no later than 4:00 p.m. central time, October 6, 2003. **Late proposals will not be considered.** Faxed or e-mailed proposals will **not** be considered.

This request does not obligate the MHESO to complete the work contemplated in this notice. The MHESO reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Human Services

Notice of Availability of Request for Proposals to Provide Management Consultation in Complex Adaptive Systems

The Department of Human Services (DHS) is seeking professional consultation and services to assist with planning and implementation for technology that will support human service delivery, administration and management. This work involves helping business and information technology managers identify and plan for:

- future needs of the department's clientele;
- future business needs of the department itself; and
- emerging technologies to provide or support delivery of human services.

Given the constant and rapid changes that occur within both the human services and the technology environments, the department has decided to carry out this work within a framework of Complex Adaptive Systems (CAS) methodologies.

Through this RFP, the department seeks the part-time, periodic services of a management consultant who has significant successful experience in applying CAS theory to strategic and tactical planning, and who has sufficient information technology experience to understand ways in which technology and CAS interact. Ideally, the consultant would also have specific knowledge and expertise in applying CAS to human services delivery and management environments.

A complete copy of the Request for Proposal may be obtained by phone or in writing by contacting:

Maureen Fuller
Administrative Assistant, ITS
Department of Human Services
444 Lafayette Road North
St. Paul, Minnesota 55155-3847
(651) 296-1691

Questions regarding this RFP may be addressed (via email only) to:

Linda Randolph
Planning and Special Projects Manager, ITS
Department of Human Services
Email address: Linda.Randolph@state.mn.us

All proposal packages must be submitted *in hard copy only* to the Department of Human Services location specified below. Faxed or e-mailed proposals will not be accepted. The packages must be received no later than 3:00 p.m. Central Time on October 3, 2003, at the following address:

Minnesota Department of Human Services
Attention: Linda Randolph, Information & Technology Strategies
c/o: Information Desk
444 Lafayette Road - 1st Floor
St. Paul, Minnesota 55155

No vendor conference will be held, but Responders have until midnight Central Time on September 16, 2003 to submit questions (via email) about this proposal. Detailed requirements for the submittal of proposals are included in the RFP and expand on the information provided in this Notice.

Department of Transportation

Metro District

Request for Qualifications for a Design-Build Contract on Interstate 494 in Eden Prairie and Minnetonka, Minnesota

The Minnesota Department of Transportation ("Mn/DOT") is requesting statements of qualifications for the Interstate 494 Design-Build project, S.P. 2785-304, ("Project") in Eden Prairie and Minnetonka, Minnesota.

Mn/DOT has completed a preliminary engineering design of roadway and bridge improvements for the Project. The Project will

State Contracts

consist of reconstructing the highway and adding one additional through-lane (for a total of 3 lanes in each direction) in each direction of Interstate 494 from T.H. 5 to Interstate 394, a distance of 7.8 miles, in the cities of Minnetonka and Eden Prairie in Hennepin County. The design-build project will also include a modification of the collector-distributor roadway along eastbound I-394 at the I-494/I-394 interchange and adding a third lane along side the existing pavement in between the north loops and north ramps at I-394 and under the Carlson Parkway bridge. Mn/DOT will use the best value design-build method of project delivery, as defined in *Minnesota Statutes* Section 161.3426, Subdivision 1(b). The current Project cost estimate is \$80 million.

The Request for Qualifications ("RFQ") document provides information about the Project scope, schedule, and weighted criteria that Mn/DOT will use to establish a short list. The RFQ invites each interested design-build Submitter to submit a statement of qualifications ("SOQ") that demonstrates how that Submitter satisfies certain criteria relevant to the Project, including, but not limited to, the following items: submitter organization and experience, key personnel experience, project understanding, project approach, and project management approach.

Mn/DOT will evaluate and score all SOQs and compile a short list of at least three but not more than five Proposers. Mn/DOT intends to issue a Request for Proposals ("RFP") after establishing the short list. Only short-listed Proposers will be eligible to respond to the RFP, although other interested individuals may purchase copies of the RFP for information. Mn/DOT will offer a stipend of approximately 0.2% of Mn/DOT's final Project design and construction estimated cost to each unsuccessful short-listed Proposer that submits technical and price proposals that Mn/DOT considers responsive.

Mn/DOT has established a Disadvantaged Business Enterprise (DBE) goal for this Project. Please refer to the RFQ for further details.

Submitters must request an RFQ in writing by mail, fax, or e-mail. With each request, Submitters must also provide a contact name, mailing address, fax number, phone number, and e-mail address. There is no charge for the RFQ. **ALL REQUESTS FOR AN RFQ** must be sent to Kevin G. Anderson, 494 Design-Build Project Manager, at the one of the following addresses:

Mail: 1500 West County Road B2, Roseville, MN 55113

Fax: (651) 582-1302

E-mail: kevin.anderson@dot.state.mn.us

ALL QUESTIONS AND COMMENTS ABOUT THE PROJECT must be submitted in writing to Mn/DOT's Project Manager at one of the addresses given above. Mn/DOT will only accept written questions or comments.

All SOQs will be considered any time up to 4:30 p.m. Central Standard Time, Wednesday, October 1, 2003, and must be addressed to Kevin G. Anderson, 494 Design-Build Project Manager, 1500 West County Road B2, Roseville, MN 55113. Any SOQ that fails to meet the October 1, 2003 deadline will be returned, unopened, to the sender.

Mn/DOT's design-build website is frequently updated with Project information: www.dot.state.mn.us/designbuild. Project information can also be found at the following ftp sites: <ftp://ftp2.dot.state.mn.us/pub/outbound/mdesign/I494DesignBuild/> and <ftp://ftp2.dot.state.mn.us/pub/products/mdesign/I494DesignBuild/>.

Department of Transportation

Program Support Group

Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (the "Consultant Pre-Qualification Program")

This document is available in alternative formats for persons with disabilities by calling Robin Valento at (651) 284-3622 for persons who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529.

Mn/DOT, working in conjunction with the Consultant Reform Committee, the Minnesota Consulting Engineers Council, and the Department of Administration, has developed the Consultant Pre-qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT anticipates that most consultant contracts for highway-related technical activities will be awarded using this method, however, Mn/DOT also reserves the right to use RFP or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to complete or use the Consultant Pre-qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to see which highway related professional/technical services are available at this time. Following the advertisement of a particular category of services, applications will be accepted on a continual basis.

All expenses incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and application forms are available on Mn/DOT's web site at <http://www.dot.state.mn.us/consult>

Send completed application material to:

Robin Valento
Pre-Qualification Administrator
Minnesota Department of Transportation
Consultant Services
395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680
St. Paul, MN 55155

Note: DUE DATE: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

Department of Transportation

Engineering Services Division

Notice Concerning Professional/Technical Contract Opportunities

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services website at: www.dot.state.mn.us/consult.

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Department of Transportation

Engineering Services Division

Request for Proposals (RFP) for Iverson Lake Safety Rest Area – SP 5680 - 117; and the Swan Lake Safety Rest Area – SP 5680 - 121

Notice of availability of Contract for comprehensive architectural design services for Iverson Lake Safety Rest Area, and Swan Lake Safety Rest Area. Responses to this advertisement become public information under the Minnesota Government Data Practices Act. This request does not obligate the State of Minnesota Department of Transportation to complete the work contemplated in this notice, and the department reserves the right to cancel this request for proposal. All expenses incurred in responding to this notice shall be borne by the responder.

The Minnesota Department of Transportation (Mn/DOT) plans to comprehensively reconstruct the Iverson Lake Safety Rest Area and to construct the Swan Lake Safety Rest Area. Iverson Lake serves motorists on eastbound I-94 and Swan Lake will serve westbound motorists. The Swan Lake site is directly across I-94 from Iverson Lake. It will replace the Hansel Lake Safety Rest Area located nine miles to the east.

Mn/DOT is requesting proposals to provide professional and technical services for the design, construction and inspection/observation for a new building and picnic shelters at the existing Iverson Lake Safety Rest Area and new building and picnic shelter construction at the new Swan Lake Safety Rest Area. Project scope of services includes architectural, mechanical, electrical, and Heating, Ventilation, Air Conditioning (HVAC) systems designs and construction observation for a complete building.

The entire request for proposal is located at www.dot.state.mn.us/consult, under the Public Notice section.

NOTE: PROPOSALS WILL BE DUE ON SEPTEMBER 29, 2003 AT 2:00 p.m. CENTRAL TIME.

Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Metropolitan Airports Commission

Request for Proposals for a Multi-Year Parking Management Contract

The Metropolitan Airports Commission at the Minneapolis/St. Paul International Airport is soliciting responses to a Request for Proposal (RFP) for a multi-year Parking Management contract. Attendance by interested vendors is mandatory for a meeting scheduled at the Airport on September 9, 2003 at 1:00 p.m. Central Daylight savings time to tour the facility and review the RFP Document. For a copy of the RFP document, contact Andrea Bolstad, Buyer at (612) 726-8163 or e-mail abolstad@mspmac.org.

Andrea Bolstad, Buyer
Purchasing Department
Metropolitan Airports Commission
6040 28th Ave So
Minneapolis, MN 55450
(612) 726-8163 phone
(612) 726-1406 fax

Metropolitan Council

Notice of Invitation for Bids (IFB) for the Procurement of a Police Information Management System Phase 1

Project Number 64190 - Contract 03P022

The Metropolitan Council is requesting bids for the purpose of purchase and installation of new, fixed mounted modular Mobile Data Computer (wireless) networked in police squad cars.

Issue Invitation for Bids	9/08/03
Receive Bids	10/9/03
Delivery	45 days from NTP
Contract, executed, NTP	11/3/03

All firms interested in being considered for this project and desiring to receive a Bid package are invited to submit a Letter of Interest to:

Harriet Simmons, Senior Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council Environmental Services
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1086
Fax: (651) 602-1138
e-mail: harriet.simmons@metc.state.mn.us

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

Metropolitan Council

Notice Regarding Hiawatha Light Rail Transit Operations Request for Proposal Process

In accordance with *Special Session Laws 2003*, Chapter 19, Section 72, the Metropolitan Council has been directed by the Legislature to prepare a Request for Proposals to operate in whole or in part Hiawatha Light Rail Transit line.

NOTICE IS HEREBY GIVEN that the Metropolitan Council Board will be briefed by staff regarding the status of activities related to this process at its regularly scheduled meeting on Wednesday, September 10, 2003, which begins at 4:00 p.m. For additional information, please contact Natalio Diaz (651) 602-1754.

Northstar Corridor Development Authority

Notice of Request for Proposals for Technical Support for Northstar Commuter Rail Negotiations

The Northstar Corridor Development Authority (NCDA), a joint powers board, requests proposals from firms to provide technical assistance to the NCDA in negotiations with Burlington Northern and Santa Fe Railway Company (BNSF) for the development and operation of the Northstar Commuter rail project. The work will include services necessary to assist the NCDA to successfully undertake negotiations with BNSF, including (1) assisting with negotiation strategy development and participation in negotiating sessions with BNSF; (2) technical advice needed to analyze and respond to BNSF proposals, including necessary capacity improvements, design, cost estimates and operational issues; and (3) capacity modeling and analytical services relating to the BNSF railroad operations, capacity and requirements. The Northstar Corridor is an 82-mile transportation corridor that follows Trunk Highway 10, the primary direct link between the northern Twin Cities region and St. Cloud/Rice, Minnesota.

A pre-proposal conference is scheduled for September 17, 2003 at 1:30 p.m. Proposals must be received by 4:00 p.m. CDT on September 29, 2003.

An RFP package may be obtained by submitting an e-mail or written request to:

Tim Yantos, Project Director
Anoka County Administration
2100 3rd Avenue
Anoka, MN 55303
Phone: (763) 323-5692
Fax: (763) 323-5682
E-mail: Tim.yantos@co.anoka.mn.us

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call BIS Coordinator at (612) 625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.

