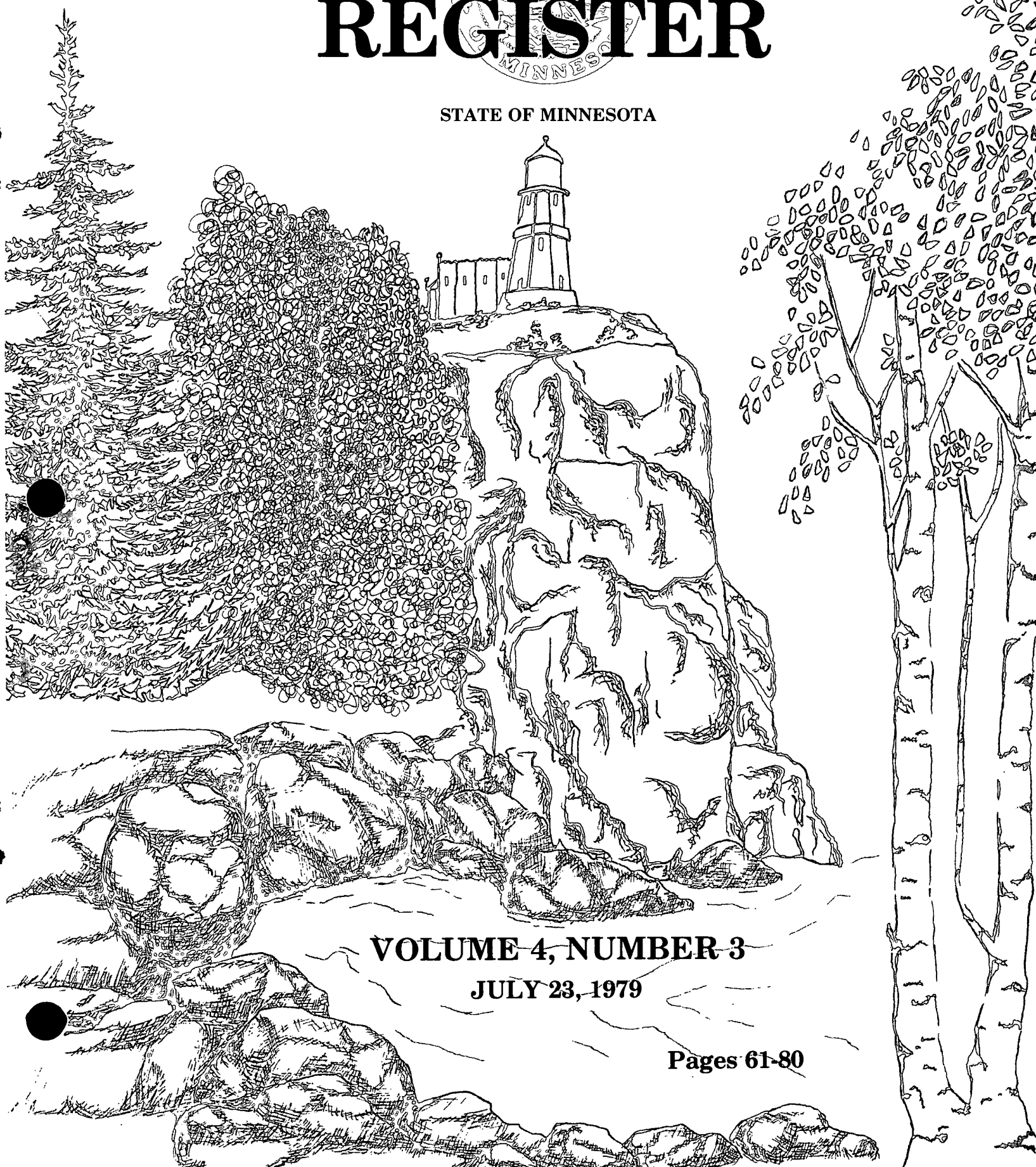


STATE REGISTER

STATE OF MINNESOTA



VOLUME 4, NUMBER 3

JULY 23, 1979

Pages 61-80

STATE REGISTER

Volume 4 Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 4			
3	Monday July 9	Monday July 16	Monday July 23
4	Monday July 16	Monday July 23	Monday July 30
5	Monday July 23	Monday July 30	Monday Aug 6
6	Monday July 30	Monday Aug 6	Monday Aug 13

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

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

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 4, Numbers 1-2 of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they

are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules is published each quarter and at the end of the volume year.

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MINNESOTA BATS are highly beneficial and deserving of protection. Voracious eaters of insects, a colony of only 500 little brown bats (one of the most common species) may capture 500,000 or more insects in a single night. A recent study found 140 mosquitoes, among other insects, in a single little brown bat's stomach, indicating that these pests are prey of bats, in addition to beetles and moths. Although bats have been feared as carriers of rabies, less than 0.5% of bats are found to be rabid when tested, and even rabid bats rarely attack man or other animals. Mammals, they suckle their young, have good eyesight, are exceptionally intelligent, may live up to 30 years, and possess sonar that is far more efficient than any that man has developed. They apparently communicate well with each other, and many species live together in well-structured social groups. Unfortunately, numbers of bats have declined drastically in recent years due to pesticides, habitat destruction, and slaughter by poorly informed people. (Caption material provided by Diane Stevenson, graphic provided courtesy of Department of Natural Resources.)



Little Brown Bat

RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

If an adopted rule differs from its proposed form, language which has

been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Administration Building Code Division

Rules for Display of the Symbol of Accessibility

The proposed rules were published in *State Register* Volume 3, Number 32, Monday, February 12, 1979 pp. 1561-1562. The rules are adopted as proposed with certain amendments. The adopted rules with amendments are published in their entirety.

Rules as Adopted

2 MCAR § 1.15530 Title and rules. The rules contained herein, 2 MCAR §§ 1.15530 through 1.15538, shall be part of the Minnesota State Building Code.

2 MCAR § 1.15531 Authorization and Purpose. 2 MCAR 1.15530 through 2 MCAR § 1.15538 are authorized by Minn. Stat. § 16.8632 (1978) regarding display of the symbol of accessibility indicating access to buildings, facilities and grounds which are accessible to and usable by handicapped persons.

2 MCAR § 1.15532 Scope. These rules apply to all new and existing buildings, facilities and grounds within the State of Minnesota on which the owner(s) or operator(s) desires to display the symbol of accessibility. The rules establishing handicapped accessibility to and within structures shall be contained in the code.

2 MCAR § 1.15533 Enforcement. These rules shall be enforced in the same manner as other provisions of the Minnesota State Building Code.

2 MCAR § 1.15534 Definitions. All terms in these rules shall have the meaning as defined in this code except for the following which shall be defined as indicated:

A. "Symbol" means the symbol adopted by Rehabilitation International's Eleventh World Congress, pursuant to Minn. Stats. § 16.8632, subd. 2.

B. "Existing Buildings" means any building built prior to January 1, 1976.

2 MCAR § 1.15535 Display of Symbol. The owner(s) or operator(s) of new or existing buildings, facilities, and/or grounds may display the symbol of accessibility after the following criteria have been met:

A. A certificate of occupancy is issued by the building official pursuant to the State Building Code 2 MCAR § 1.10111, UBC Sec. 306; or,

B. The owner(s) or operator(s) obtain(s) an affidavit of compliance prepared and signed by a Minnesota registered architect or engineer, Minnesota Certified building official or approved inspection agency. The affidavit shall contain the statement that the buildings, facilities and/or grounds are in compliance with the code and the Minnesota Statutes pertaining to handicapped accessibility. The affidavit shall specifically address all accessibility features required by the State Building Code on a standard form furnished for that purpose.

2 MCAR § 1.15536 Appeals. All appeals regarding compliance with accessibility standards as required by §1.15535 shall be brought pursuant to 2 MCAR §1.10111, UBC Sec. 204.

2 MCAR § 1.15537 Issuance. After compliance with the rules of this section, 2 MCAR §§ 1.15530 to 1.15538, and upon request of the owner(s) and operator(s), the building official shall issue the symbol.

A. A municipality which determines to evaluate existing buildings for accessibility under 2 MCAR § 1.15535 B. shall adopt a reasonable schedule of fees based on its cost of inspection. No charge or fee shall be imposed for the issuance of the symbol.

2 MCAR § 1.15538 Placement of Symbol. The symbol when issued shall be affixed on the approved building(s), facility(ies), or grounds in the following manner:

A. Buildings. The symbol shall be affixed to the door of the accessible entrance 36" above the walking surface and within 12" of the latch, pull, or lever handle.

B. Facilities. The symbol shall be affixed to an 8" x 12" sign blank or board mounted on a post 42" above grade (center line of sign) within 60" of said facility.

C. Grounds. The symbol shall be affixed to an 8" x 12" sign blank or board mounted on a post 42" above grade (center line of sign) within 60" of a public way.

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Chiropractic Examiners

Board of Chiropractic Examiners' Proposed Adoption of Rule Provisions Relating to Continuing Education

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 105, at the Minnesota Health Department Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on September 5, 1979, commencing at 1:00 p.m.

All interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Harry S. Crump, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8111. Unless a longer period not to exceed 20 calendar days is ordered by the Hearing Examiner at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. The hearing shall be conducted in accordance with the rules of the Office of Hearing Examiners, 9 MCAR § 2.101 *et seq.*

The proposed rule provisions, if adopted, would add a new section to 7 MCAR § 2.005 (Minn. Rule Chi. 5). At present, 7 MCAR § 2.005 sets forth fee payment requirements for individual annual license renewal. The new section would add continuing education standards. Most significantly, the rule would increase annual continuing education requirements from five to 20 course hours. Three of these 20 hours would necessarily be in the area of radiographic safety, technique and/or interpretation. New licensees would be exempt from ten hours of the full twenty hour requirement the first year following the year of their initial licensure and from five hours the second year. The proposed rule also includes a listing of preapproved continuing education programs and would establish procedures and criteria for the Board's approval of other programs. Courses dealing with administrative and economic aspects of practice would not be approved for

continuing education credit. In addition to the foregoing, the rule would specify procedures for each licensee's proof of attendance at the requisite number of annual course hours and establish penalties for falsification of such proof and for general noncompliance. Among the penalties which could be imposed would be license revocation or suspension. In the event a license were revoked or suspended or another remedy imposed, the rule would provide for reinstatement either by reexamination or by attendance at an additional ten course hours for each year since the license was last renewed. Finally, the proposed rule would authorize the Board's waiver or deferment of continuing education requirements as to licensee's who showed the existence of illness or hardship making it impossible or highly impractical for them to meet the rule's requirements.

Copies of the proposed rule are now available, and one free copy may be obtained by writing to the Minnesota Board of Chiropractic Examiners, 717 Delaware Street Southeast, Room 336, Minneapolis, Minnesota 55414. Additional copies will be available at the door on the date of the hearing.

The statutory authority of the Minnesota Board of Chiropractic Examiners to promulgate the proposed rule is contained in Minn. Stat. §§ 148.05, 214.06, subd. 2, and 214.12 (1978).

Notice: The proposed rule is subject to change as a result of the rule hearing process. The Board therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

Please be advised that pursuant to Minn. Stat. § 10A.03, subd. 1 (1978) lobbyists must register with the State Ethical Practices Board within five days after becoming lobbyists.

“‘Lobbyist’ means any individual:

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

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

‘Lobbyist’ does not include any:

PROPOSED RULES

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony;

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over \$250, excluding his own travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim."

Minn. Laws 1979, ch. 59 § 3. Questions concerning lobbyists or their required registration should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155, at telephone number (612) 296-5615.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the office of the Board of Chiropractic Examiners and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Board at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Board. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report),

or to the Board (in the case of the Board's submission or resubmission to the Attorney General).

Promulgation of these proposed rule provisions will not result in the expenditure of public monies by local public bodies.

Dated: June 28, 1979

E. A. BROCHMAN, D.C.
Executive Secretary

Amendments as Proposed

7 MCAR § 2.005 (Chi 5) Individual Annual License Renewal

A. Fee.

~~(a)~~1. Thirty (30) or more days before January 1 each year, the State Board of Chiropractic Examiners (hereinafter "Board") shall mail to the last address on file with the Board a license renewal fee notice to each person (hereinafter "licensee") licensed to practice chiropractic within this state.

~~(b)~~2. The license of each licensee shall expire at midnight on December 31 each year. Subject to the terms of part B of this rule, the Board shall renew the license upon receipt from the licensee of a license renewal fee of \$50.00, plus any applicable penalty fee as set forth in ~~(e)~~3. below. Each licensee shall submit the license renewal fee to the Board no later than January 1 of the year for which the license renewal is requested.

~~(e)~~3. A licensee shall submit to the Board, in addition to the license renewal fee, a penalty fee of \$5.00 per month for each month or portion thereof for which the license renewal fee is in arrears, such penalty not to exceed \$50.00

B. Continuing education.

1. Purpose. The primary purpose of continuing chiropractic education is to assure the consumer of an optimum quality of chiropractic health care by requiring doctors of chiropractic to attend educational classes or seminars designed to advance their professional skills and knowledge.

2. Annual requirement. Except as hereinafter provided, every person licensed to practice chiropractic in this state shall, as a prerequisite for the annual renewal of his license, attend a minimum of twenty (20) hours during the preceding calendar year of continuing education courses recognized and approved by the Board.

a. At least three (3) of such hours shall be devoted to radiographic safety, technique and/or interpretation.

b. Licensees shall be exempt from the preceding continuing education requirements for the calendar year in

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **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."

PROPOSED RULES

which they are initially licensed. During the first calendar year following the year of initial licensure, licensees shall attend a total of not less than ten (10) hours of recognized and approved continuing education courses, including at least three (3) hours devoted to radiographic safety, technique and/or interpretation. Thereafter, five (5) additional course hours shall be attended each year until the annual twenty (20) hour minimum requirement is met.

3. Approved programs. Subject to continued approval under the criteria set forth at section 5 hereof and except as set forth under section 6, the following continuing education classes are approved by the Board:

a. Educational meetings of the American Chiropractic Association.

b. Educational meetings of the International Chiropractic Association.

c. Educational meetings of the Canadian Chiropractic Association.

d. Educational classes conducted by any chiropractic college that is accredited by or has accreditation status with the Council on Chiropractic Education.

e. Educational classes conducted by any state chiropractic association.

4. Other programs subject to approval. Other continuing education programs may be approved by the Board upon a written request therefor submitted by the program sponsor to the Board executive secretary. All such requests shall be received not less than ninety (90) days prior to the program presentation date and shall contain the following information:

a. Name and address of organization sponsoring the course for which approval is requested.

b. Instructor's name and credentials.

c. An outline of subject matter to be covered.

d. The number of sixty (60) minute hours of actual instruction.

e. The mechanism of monitoring and certifying attendance.

f. The location at which the course will be conducted.

g. Dates the course will be presented.

h. Tuition fee.

5. Program approval criteria. The Board shall employ the following criteria in determining whether a continuing education program shall be approved and the number of course hours for which approval is granted:

a. Whether the material to be presented is likely to enhance the practitioner's knowledge and skill in the practice of chiropractic.

b. Whether the instructors or speakers presenting the program are sufficiently qualified in the field of their instruction, either by practical or academic experience or both.

c. Whether the classes will be held in a suitable setting which is conducive to the learning process.

6. Unapproved programs. Courses dealing with administrative and economic aspects of practice shall not be approved for continuing education credit by the Board.

7. Proof of attendance.

a. On or before January 1 of the year for which renewal of his license is requested, each licensee not initially licensed in this state during the preceding calendar year shall submit a written statement to the Board executive secretary containing the following:

(1) The name, date and subject of each educational program attended during the preceding calendar year;

(2) The names of the sponsoring organizations;

(3) The number of sixty (60) minute class hours of instruction offered at each program and the number of hours actually attended; and

(4) The name, signature, and current mailing address of the licensee.

b. Falsification of any written evidence submitted to the Board executive secretary pursuant to this rule shall be deemed to be unprofessional conduct and constitute grounds for license revocation or suspension.

8. Failure to comply. The Board may refuse to renew, or may revoke, suspend, condition, limit, restrict or qualify the license of any licensee failing to comply with the requirements of this rule and/or may publicly reprimand, censure and place such person on probation with the Board.

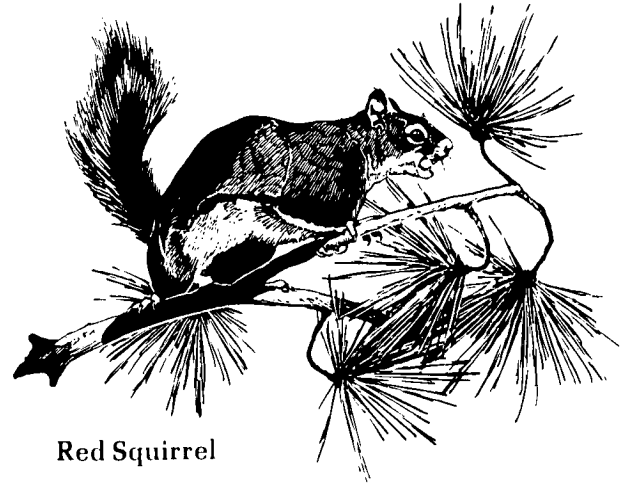
9. Reinstatement. The license of any licensee which is not renewed or which is revoked, suspended, or reduced in status by reason of failure to comply with the continuing education requirements of this rule may, at the election of the licensee or former licensee, be reinstated or restored to full status by either of the following procedures:

a. Submission to the Board executive secretary of proof of the make up of all continuing education course hour and subject matter requirements which would have been necessary for continuous licensure from the date of such person's last license renewal or initial licensure, whichever is more recent, and submission to the Board's executive secretary of proof of attendance at an additional ten (10) hours of Board recognized and approved continuing education courses for each intervening renewal year. Proof of compliance with the foregoing requirements shall be made by written statement in the form prescribed under section 7.a. of this rule and subject to the provisions of section 7.b.; or

b. Reexamination by the Board at the time for which it next schedules license examinations. No such reexamination shall be conducted except upon a written application therefor received by the Board executive secretary not less than thirty (30) days prior to the examination date.

PROPOSED RULES

10. Waiver or deferment of continuing education requirements. The Board may waive or defer compliance with some or all annual continuing education requirements for any licensee presenting satisfactory written evidence to the Board of illness or hardship making it impossible or highly impractical for the licensee to attend or to have attended a sufficient number of approved continuing education class hours.



Red Squirrel

STATE CONTRACTS =

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contract person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

The red squirrel, smallest of the tree squirrels, measures 11-14 inches in length and weighs from 5-11 ounces. It ranges from Alaska and Canada to New Mexico and South Carolina, preferring pine forest habitats. Aggressive about its food stores and its home range, the red squirrel is fearless in the trees. Ernest Thompson Seton (1860-1946), Canadian naturalist, writer, artist and early Boy Scout leader writes of it as: "... a veritable Puck-o'-the-Pines — an embodiment of merriment, bird-like activity and saucy roguery ... as boisterous as it is vigorous in work and play."

Energy Agency Information and Education Activity

Notice of Availability of Contracts for Professional and Technical Services in the Graphic Arts

The Minnesota Energy Agency is seeking to identify contractors in graphic arts with the following services:

- layout/design
- keylining
- audio-visual presentations (script writing, slide photography, sound recording)
- radio and TV Public Service Announcements

- graphics for brochures, pamphlets, displays, slides, transparencies

Contract services must be available upon request through June 30, 1980.

Interested firms must submit proposals by August 13, 1979, stating services offered, hourly rate for those services and any minimum requirements. A sample, or samples, of your work must also be included.

All questions related to this notice and all proposals should be directed to:

Jean M. Dick
Minnesota Energy Agency
Information and Education
980 American Center Building
150 Kellogg Boulevard
St. Paul, Mn. 55101
(612) 296-9082

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **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."

**Department of Health
Services For Children With
Handicaps (SCH)**

**Notice of Request for Proposal for
Technical Services Contract**

The SCH Program (the Crippled Children Services Agency in Minnesota) seeks to improve the health, both mental and physical, of children with diabetes by stimulating the development and availability of competent and comprehensive health care delivery services for these patients in the State of Minnesota.

Therefore SCH is requesting a proposal from a health care organization of facility to assist SCH in implementing a program to accomplish its goals by means of a technical services contract.

The contractor's duties shall be to provide a nurse practitioner and a pediatrician skilled in the understanding and clinical management of juvenile diabetes mellitus who would assist SCH staff in the organization and provision of professional services at a series of field clinics throughout the state. These duties shall include:

1. Responsibilities for clinical examination and assessment at a summer camp for diabetic children (Camp Needlepoint).
2. Development of patient history forms, questionnaires and other instruments needed at special diabetic field clinics.
3. Development (with SCH staff) of specific program initiatives and establishment of pilot sites for these programs.
4. Provision of educational and orientation programs for local health professionals prior to field clinics.
5. Ongoing consultation with community health professionals to assure optimal care of children with diabetes.
6. Staffing at field clinics to provide interview, examination and counseling of children and families.

The total obligation of the State for all compensation and reimbursements to contractor shall not exceed twenty thousand five hundred dollars (\$20,500.00).

Proposals shall be submitted to Richard P. Nelson, M.D., Director, Services for Children with Handicaps, 2829 University Avenue Southeast, Suite 840, Minneapolis, Minnesota 55414, by August 6, 1979.

**Intergovernmental
Information Systems
Advisory Council (IISAC)**

**Notice of Request For Proposal(s)
For the Analysis and Evaluation
of Various Automation
Approaches Taken By
Minnesota Local Governments**

The Intergovernmental Information Systems Advisory Council (IISAC) and the Government Training Service (GTS) are interested in an assessment of the cost/effectiveness and the associated short/long range implications of the various approaches to automation taken by Minnesota local governments. In this regard, a Request For Proposal (RFP), which further delineates the requirements for this potential effort, has been distributed to known interested firms. The deadline for receipt of proposals is August 15, 1979. Anyone not receiving the RFP and/or desires more information is requested to contact either Roger Sell, Executive Director of IISAC, (612) 297-2172 or Helene Johnson, Executive Director of GTS, (612) 222-7409.

**Minnesota Occupational
Information Coordinating
Committee (MOICC)**

**Notice of Request for Proposal to
Design and Conduct a Survey**

The Minnesota Occupational Information Coordinating Committee (MOICC) is seeking a person or organization to design and conduct a survey of a number of occupational information user groups. These user groups include education and training program administrators and planners, career guidance professionals, and job market participants.

The purpose of the survey is to identify (1) informational needs currently being satisfied, (2) those needs which remain unmet, and (3) information development priorities upon which to establish a more responsive occupation information system for users. The occupational information user needs assessment will include the following tasks:

1. Define the survey universe in terms of user subgroup and geographic strata.
2. Work with MOICC Technical Council and user groups to assure user input on project design.
3. Prepare a project design describing the survey methodology, analytic techniques, expected results, and ways in which the findings will be presented and disseminated.

4. Design sample through subsamples developed from mailing lists, applicant and student files, directories, etc.

5. Develop survey instruments including mail questionnaires, telephone and in-person interview schedules.

6. Conduct a pilot test using survey instruments and subsample definitions.

7. Prepare report on pilot test and revise survey design and instruments as appropriate.

8. Conduct final survey mailouts, interviews and follow-up.

9. Tabulate, analyze, and summarize results.

10. Prepare and disseminate draft survey report. Analyze formal and informal feedback.

11. Meet with agencies and user group to review draft report and define unmet needs.

12. Present final draft report to MOICC and TAC.

13. Prepare final report.

Total estimated cost is \$28,000 (twenty-eight thousand dollars). Final proposal submission responses will be accepted up to 4:30 p.m., August 15, 1979.

Persons or organizations wishing to receive this Request For Proposal (RFP) package or who would like additional information may contact the contracting officer, John Cosgrove, at the following address:

Minnesota Occupational Information
Coordinating Committee (MOICC)
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-2072

Department of Transportation Research and Development Section

Notice of Availability of a Contract for an Aggregate Resource Study

The Department of Transportation acting as the agent for the Local Road Research Board requires the services of a consultant for an aggregate resource study. The proposed study will consist of two parts.

Part one will be a pilot study in selected regions of Minnesota to determine the type and extent of the aggregate supply problem. General items considered under this part of the study will be the extent of the present known supply, cause and rate of depletion estimating when the supply will run out, and methods of extending supplies.

Part two will be a state-of-the-art study to determine what methods the private or public sectors on the local, state and national levels have used to find, extend, preserve or conserve aggregate supplies.

The Local Road Research Board has budgeted a maximum of eighty thousand (\$80,000) dollars for this work. Consultants having established offices in Minnesota are to be given first consideration. Those interested may obtain a request for proposal from:

Gabriel S. Bodoczy, P.E.
Research Services Engineer
Research and Development Section
Minnesota Department of Transportation
Room G-29D, Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-4925

Request for proposals will be available through August 24, 1979. All proposals will be due no later than August 31, 1979.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on

the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Education Division of Special Services Office of Public Libraries and Interlibrary Cooperation

Notice of Intent to Solicit Outside Opinion Regarding Rules for Grants for Public Library Services and Interlibrary Cooperation

The Department of Education, Division of Special Services, Office of Public Libraries and Interlibrary Cooperation is drafting rules to implement Laws of 1979, ch. 334, art. IX, §§ 10 & 11, which permits the State Board of Education to provide grants for multicounty multitype library cooperation.

The Department invites interested persons or groups to provide information, comment and advice on the subject in writing or orally to Mr. William G. Asp, Director, Office of Public Libraries and Interlibrary Cooperation, 301, Hanover Building, 480 Cedar Street, St. Paul, MN 55101.

Written statements will be made part of the public hearing record.

Energy Agency Data and Analysis Division Owatonna Public Utilities

Notice of Postponement on Application for a Certificate of Need for a 25 Megawatt Electric Generating Facility

To allow more time for preparation by the parties, the public hearings concerning the application by Owatonna Public Utilities for a certificate of need for a 25 megawatt electric generating facility have been postponed.

The hearings will convene on September 24, 1979, at 7:00 p.m., in the City Council Chambers, 540 West Hills Circle, Owatonna, Minnesota. The hearing will continue at 9:00 a.m. on September 25 at the same place and at other times and places to be specified by Hearing Examiner Allan W. Klein, Room 300, 1745 University Avenue, Saint Paul, MN 55104, telephone (612) 296-8104.

The time specified for receipt of testimony from persons not parties to the proceeding is Tuesday, September 25, 1979, starting at 7:00 p.m. However, if this time is inconvenient, other times can be arranged. If you desire to testify at another time, please contact the Hearing Examiner.

The deadline for intervention has been changed to August 1, 1979. The prehearing conference scheduled for July 17, 1979, has been cancelled. Testimony from parties other than the applicant shall be prefiled on or before August 15, 1979.

For further information, contact Arthur L. Adiarte, Energy Facility Analyst, Minnesota Energy Agency, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, MN 55101, telephone (612) 296-8279.

July 13, 1979

David L. Jacobson, Manager
Certificate of Need Program

Ethical Practices Board

Notice of Regular Meeting

The next regular meeting of the Ethical Practices Board will be held Friday, July 27, 1979, at 9:30 a.m., Room 14, State Office Building, St. Paul, MN.

Preliminary Agenda

1. Minutes (June 8, 1979)
2. Chairman's Report
3. Wage and Salary Review Committee
4. Campaign Finance Rules — final approval
5. Economic Interest Rules — final approval
6. Legal Counsel Report
7. Executive Director's Report
 - a. Financial Statement
 - b. Delinquent Committees and Funds
 - c. Delinquent Lobbyists
 - d. Delinquent Statements of Economic Interest
8. Public Finance Discussion
9. Other Business

Request for Advisory Opinion on Political Activity — Association Employment Policy

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion which will be discussed at its Board meeting on July 27, 1979, Room 14, State Office Building, St. Paul, MN. No formal action to adopt an opinion will be taken prior to its August meeting. Written comments concerning the opinion request should be forwarded to arrive at the Board's office prior to August 13, 1979.

July 16, 1979

Minnesota Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

Gentlemen:

We would appreciate your responding to a question that has been raised regarding employees and board members — relative to candidacy for public office on a state and national basis. Can Communicating For Agriculture adopt a personnel policy providing that its board members and employees must resign prior to becoming active candidates for public office, in light of Minn. Stat. § 10A.20, subd. 11.

Yours truly,

M. E. Smedsrud
President
(Communicating for Agriculture)
P.O. Box 677
Fergus Falls, MN 56537

**Board of Nursing
Notice of Intent to Solicit Outside Opinion Regarding Licensure and Disciplinary Rules**

The Board of Nursing is beginning to examine its current rules pertaining to the procedures used to license professional nurses and practical nurses by examination and by interstate endorsement for the purpose of amending existing rules or drafting new rules which will define terms and specify procedures to be followed by applicants and the Board. The purpose of this activity is to clarify and simplify the procedure in accordance with current laws.

The Board of Nursing is also beginning to draft rules for the purpose of defining terms and specifying procedures used in disciplining licensees.

Interested parties are invited to submit information, comments and advice on the above subjects in writing or orally to Joyce M. Schowalter, Executive Secretary, Minnesota Board of Nursing, 717 Delaware St. SE, Minneapolis, MN 55414, (612) 296-5493.

Written statements will be made part of the public hearing record.

**Pollution Control Agency
Notice of Rescheduling of Hearing on Proposed Rules Regarding Standards of Performance for Coal Handling Facilities and Fugitive Emissions within Designated Areas**

Notice is hereby given that rule hearings in the above-entitled matter scheduled for the Board Room of the Minnesota Pollution Control Agency on August 13, 14 and 15, 1979, and in the St. Louis County Commissioners Board Room in Duluth, Minnesota, on August 16, 1979, are hereby rescheduled. Notice of these hearings and the text of the proposed rules were previously published at 4 S.R. 9 (July 9, 1979). The hearings will be held on the following dates at the following locations:

Monday, September 10, 1979, in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota 55113, commencing at 9:00 a.m.;

Tuesday, September 11, 1979, in the Board Room of the Minnesota Pollution Control Agency, commencing at 1:00 p.m., and reconvening at 7:00 p.m.;

Wednesday, September 12, 1979, in the Board Room of the Minnesota Pollution Control Agency, commencing at 9:00 a.m.;

Thursday, September 13, 1979, in the St. Louis County Commissioners Board Room in the St. Louis County Court House, Duluth, Minnesota, commencing at 1:00 p.m., and reconvening at 7:00 p.m.

Questions concerning this matter should be directed to Mr. Brad Beckham, Division of Air Quality, Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota 55113 (612/296-7265).

Dated: July 16, 1979

Terry Hoffman
Executive Director

**Office of the Secretary of
State
Election and Legislative
Manual Division**

**Notice of Vacancy in Multi-
Member Agencies —
Application and Appointment
Procedures**

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Bldg., St. Paul, MN 55155; (612) 296-2805. Application deadline is Tuesday, August 7, 1979.

Interagency Task Force on Special Transportation Services: three vacancies open immediately for members representing public and private entities that provide special transportation services. This task force was created by Special Session Laws, Chapter 1, 1979. In addition to these public members, it is composed of representatives of state departments, boards, and agencies which provide or regulate special transportation services and representatives of the Metropolitan Council and regional development commissions. The task force shall identify special transportation programs, study opportunities for coordination of such programs and evaluate their effectiveness, recommend the adoption of policies, rules, and legislation necessary to implement programs the task force has developed and report its findings to the legislature. The task force expires December 31, 1980. The commissioner of transportation is the appointing authority. Members receive no compensation. For specific information, contact Sherri Alston, 413 Transportation Building, St. Paul, MN 55155; (612) 296-8047.

American Indian Advisory Board: two vacancies open immediately for residents of Duluth and St. Paul for terms expiring December 31, 1979. The Board establishes policies and procedures for American Indian chemical dependency programs, reviews proposals for funding, and makes recommendations to the citizens' advisory council. Meetings are held quarterly. Members receive \$35 per day plus expenses. The appointing authority is the director of the chemical dependency programs division of the department of public welfare. For specific information, contact Joe Bigbear, Indian Desk, 4th Floor, Centennial Office Bldg., St. Paul, Mn. 55155; (612) 296-4043.

**Department of
Transportation
Office of Environmental
Affairs**

**Notice of Request for Public
Comment Relating to
Establishing a Program of State
Grants for the Development of
Local Bicycle Trails (Bikeways)**

Laws of 1977, ch. 421, § 5, Subd. 2 authorizes the Commissioner of Transportation to establish by rule pursuant to Minn. Stat. § 15.0412 (1978) procedures for the administration of grants to units of government as defined in Section 2 of the Act for the betterment of public land and improvements needed for local bicycle trails.

Minn. Stat. § 15.0412, subd. 6 (1978) requires that all interested persons or groups be allowed to submit for consideration their written comments relating to the proposed temporary rules relating to Establishing a Program of State Grants for the Development of Local Bicycle Trails (Bikeways). Comments should be addressed to the Minnesota Department of Transportation, Office of Environmental Affairs, 807 Transportation Building, Saint Paul, Minnesota 55155 (Attention: Mr. Lawrence Foote).

Temporary rules relating to Establishing a Program of State Grants for the Development of Local Bicycle Trails (Bikeways) previously proposed in 2 S.R. 1360 and adopted in 2 S.R. 1894 have now expired. However, the rules to be proposed will remain unchanged from the previous temporary rules unless matter submitted by interested persons or groups justify changes. Any comments received by the Department of Transportation will become a part of the record of proceedings leading to the adopting of permanent rules.

Please be advised that a lobbyist must register with the State Ethical Practices Board within (5) five days after he or she commences lobbying. A lobbyist is defined by Minn. Stat. § 10A.01, subd. 11, as any individual who is:

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

B. Spends more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

OFFICIAL NOTICES

A lobbyist does not include any:

A. Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

B. Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

C. Individual while engaged in selling goods or services to be paid for by public funds;

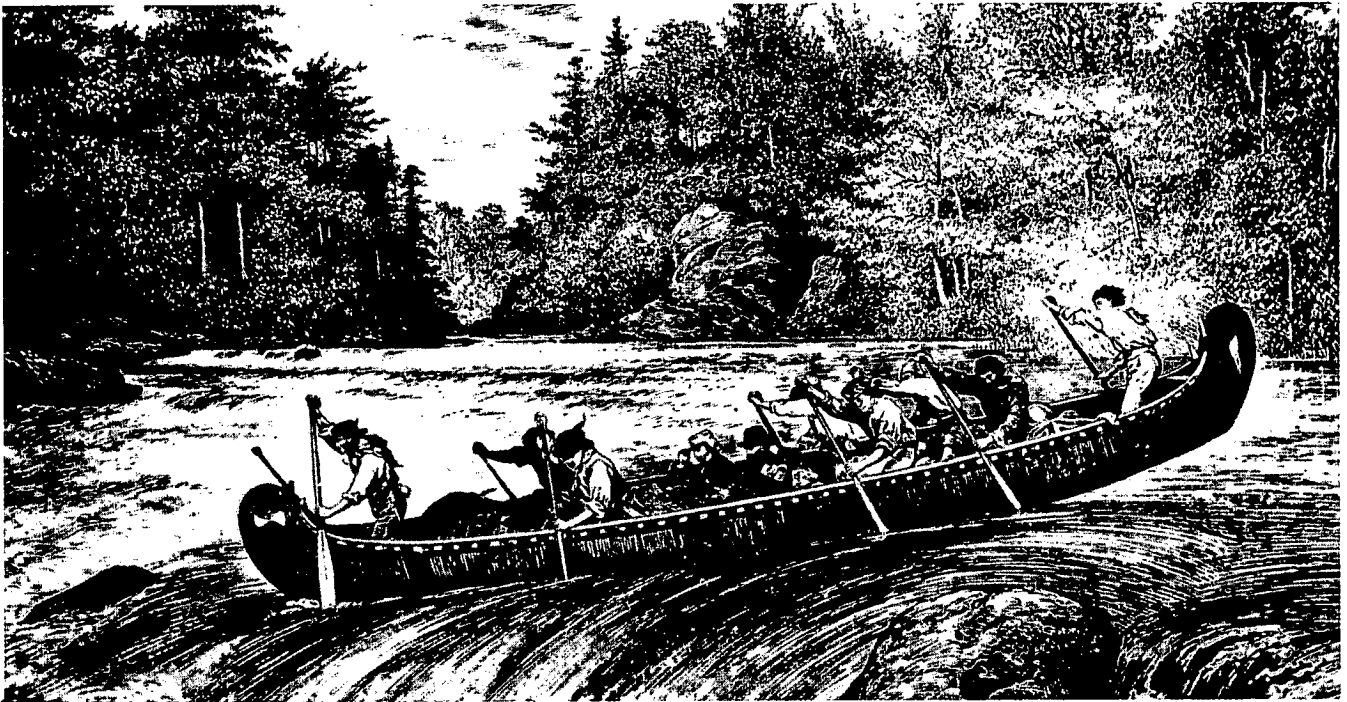
D. News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

E. Paid expert witness whose testimony is requested by the body before which he is appearing but only to the extent of preparing or delivering testimony; or

F. Stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding his own travel expenses in any year in communication with public officials. Questions should be addressed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, Saint Paul, Minnesota 55155, telephone: (612) 296-5615.

July 16, 1979

Richard P. Braun
Commissioner



Letters, diaries and other records document the existence of an estimated 150 fur trade posts, mainly along waterways, in the area that became Minnesota. Explorers and fur traders working this territory generally used birchbark canoes 25-feet long. A crew of 8 tough voyageurs skilled in canoe handling paddled for 12 hours and carried 90-pound packs of furs and supplies across the difficult portages of northern Minnesota. (From George M. Grant, *Ocean to Ocean*, 1873.)

SUPREME COURT

Decisions Filed Friday, July 13, 1979

Compiled by John McCarthy, Clerk

50142/Sp. Robert Pavlak, Relator, vs. Joan Growe, Secretary of State of the State of Minnesota. Supreme Court.

A member of the Minnesota House of Representatives excluded from office because of a violation of the Fair Campaign Practices Act may not be precluded from running in the subsequent special election solely because of his prior violation of the Act.

Motion granted by order of this court of May 25, 1979. Sheran, C. J.

48354/430 Irma Rita Ruzic, petitioner, Appellant, vs. Joseph J. Ruzic. Hennepin County.

The distribution of 30% of the property to the appellant wife and award of \$600 per month alimony for 6 years was not an abuse of discretion within the circumstances of this case.

Affirmed. Sheran, C. J. Dissenting, Otis, Peterson and Kelly, JJ.

48527/1 Judith A. Sandal, widow of Owen J. Sandal, deceased, Relator, vs. Tallman Oil Company and Fidelity & Casualty Company of New York, Withnell Oil Company and State Auto and Casualty Underwriters. Workers Compensation Court of Appeals.

Where the onset of an employee's occupational disease occurred in the year 1959 and resulted in his death from a secondary complication in the year 1975, the dependency benefits which are payable under Minn. St. § 176.111 are determined by reference to the wages the deceased earned in 1959, notwithstanding the fact they were then nominal compared to those which he earned at the time of his death.

Affirmed. Otis, J. Took no part, Wahl, J.

48627/406 Kathleen M. Holliday vs. Rush Products Division of Lake Center Industries, et al, Relators. Workers Compensation Court of Appeals.

Substantial credible evidence existed in the record to support employee's claim for continuous and total disability.

Evidence in the record indicated that medical care and treatment would be necessary in the future.

Evidence in the record supported a claim for a doctor bill by a treating physician.

Affirmed. Kelly, J. Dissenting, Otis, Peterson, and Rogosheske, JJ. Took no part, Sheran, C. J.

49045/171 Jerry Jerabek vs. City of Rochester, Relator, Teleprompter Corporation. Workers Compensation Court of Appeals.

The medical testimony did not require a finding that employee's disability was causally related to his part-time employment by a cable television supplier, and the finding that his disability was causally related to his work as a fire fighter for the City of Rochester has sufficient evidentiary support.

In the absence of a finding determining the extent of employee's loss of earning capacity, an award for temporary partial disability is reversed and the matter is remanded for the making of such a finding.

Affirmed in part, reversed in part, and remanded. Todd, J.

49236/197 In the Matter of the Welfare of G. S. J. Hennepin County.

Pursuant to statute, a juvenile has an informal right of cross-examination during the dispositional stage of the juvenile court proceeding. Under the facts of this case, the juvenile was not denied this statutory right or claimed due process rights during the dispositional proceeding.

Affirmed. Todd, J. Concurring specially, Scott, Kelly, Peterson, and Rogosheske, JJ.

47718/279 State of Minnesota vs. Michael George Hyatt, Appellant. Ramsey County.

Held, defendant seeking postconviction relief on ground of ineffective assistance of trial counsel failed to meet his burden of proof, and post-conviction court did not err in denying relief.

Affirmed. Todd, J.

48969/102 State of Minnesota vs. Bernard Matthew Crace, Appellant. Mille Lacs County.

Minn. St. § 609.205(2) is clear and definite and is not unconstitutionally vague in providing that one who causes the death of another by "negligently believing him to be a deer or other animal" is guilty of manslaughter in the second degree.

Where the trial court separated the offense into its various elements and instructed fully on each, we find that the crime charged was adequately explained.

Where the court was not requested to give instructions on the proper use of character evidence, we find no error.

The prosecution's reference to drinking was fair and objective, based upon the facts and circumstances of the case, and was not prejudicial.

It is well settled that contributory negligence of the victim is never a defense to a criminal prosecution, but it can be considered by the jury to show that the defendant was not negligent or that his acts did not constitute the proximate cause of death.

Affirmed. Scott, J.

SUPREME COURT

49144/143 **Irwin Robinson, et al, vs. Marceal Lamott, d.b.a. Corner Bar, et al., defendants and third party plaintiffs, Appellants, vs. Randall R. Quast, et al., third party defendants. McLeod County.**

The Minnesota Civil Damage Act, Minn. St. § 340.95, does not create a course of action in favor of one injured by reason of his own intoxication, whether he is or is not an alcoholic.

In adopting the Civil Damage Act the legislature preempted the subject of remedies available for wrongs arising from improper sales of statutorily-defined intoxicating beverages by resident vendors. Therefore, the Civil Damage Act is the exclusive remedy against such liquor vendors and a common-law action is not available.

A party injured because of his own intoxication is not precluded from proceeding under Minn. St. § 340.12 against a liquor vendor's surety bond because of his inability to otherwise recover under Minn. St. § 340.95, since § 340.12 is by its own terms a penal statute.

Reversed and remanded. Scott, J. Took no part, Todd, J.

48162/300 (1978) **James Brennan, et al vs. Minneapolis Society for the Blind, Inc., Appellant. Hennepin County.**

While only bylaws relating to membership are subject to the specific requirements of Minn. St. § 317.25, subd. 1(2), all corporate bylaws must be fair and reasonable. In reviewing the reasonableness of such bylaws, the circumstances of their application where the injury is alleged may be considered. Based on the evidence before it, the trial court did not err in finding the bylaw amendments at issue to be unreasonable.

An amendment to the articles of incorporation is of no effect until it has been recorded pursuant to Minn. St. § 317.27, subd. 5, nor does it apply retroactively when recorded to validate any action preceding the recordation. Because the Board of Directors was not empowered to amend the articles of incorporation, the amendment restricting voting membership was invalid.

Qualifications for membership in addition to those set forth in the corporate bylaws were improperly imposed by resolution of the Board of Directors. The meeting of the membership as it was reconstituted and restricted by the resolution was illegal, and the actions taken there were void.

In ordering a new election for the Board of Directors, the trial court reasonably exercised its equitable powers to secure the right of plaintiffs to participate in a fair, open election.

State action within the meaning of 42 U.S.C.A. § 1983 may be established under the sufficiently close nexus test of *Jackson v. Metropolitan Edison Co.*, 419 U.S. § 345, 95 S. Ct. 449, 42 L. ed. 2d 477 (1974), or, in the absence of a nexus, under the symbiotic relationship test illustrated by *Burton v. Wilmington Pkg. Authority*, 365 U.S. § 715, 81 S. Ct. 856, 6 L. ed. 2d 45 (1961). Neither test was met in this case.

Affirmed. Wahl, J. Took no part, Otis, J.

48209, 48465/72 **State of Minnesota vs. Jerome A. Jankowski, a.k.a. J. Reynolds, Appellant (48465), Randon Louis Garcia, Appellant (48209). Hennepin County.**

Officers had reasonable cause to believe appellants were accomplices of one who had uttered a forged check and so could arrest without a warrant pursuant to Minn. St. § 629.34.

Officers did not violate Minn. St. § 629.34 when they followed suspects through an open door into a motel room without first announcing their office and purpose.

It was reasonable to seize an automobile and baggage without a warrant, for later search at the police station pursuant to a search warrant, where there was probable cause to believe they were instrumentalities of a crime and might contain evidence of that crime.

The evidence sustains jury's finding that appellant Randon Louis Garcia was guilty of aiding in the uttering of a forged check.

Affirmed. Kennedy, J. Took no part, Wahl, J.

49237/220 **State of Minnesota ex rel. Mary Jo Main, petitioner, Appellant, vs. Donald Omodt, Sheriff, Hennepin County Minnesota. Hennepin County.**

Where petitioner has been found not guilty by reason of mental illness and is confined pursuant to a civil commitment, the issues raised in her petition for habeas corpus are moot because the justification for the civil commitment does not depend on the validity of the criminal complaint.

Appeal dismissed. Per Curiam.

49110/228 **Calvin Cameron, Relator, vs. American Legion Post 435, et al. Workers Compensation Court of Appeals.**

Since employee's disabling heart condition did not arise out of and in the course of his employment, the decision of the Workers Compensation Court of Appeals denying his claim for compensation is affirmed.

Affirmed. Per Curiam. Took no part, Wahl, J.

48642/229 **State of Minnesota vs. James Virgil Bartell, Appellant. Itasca County.**

The disputed evidence pertaining to the charge of aggravated assault against defendant was properly submitted to the jury for its resolution and the conviction is sustained.

Affirmed. Per Curiam.

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