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*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...

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Albert H. Quie
Governor

Carol Anderson Porter
Editor

James J. Hiniker, Jr.
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener, Roy Schmidtke, Jean Walburg
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the State Register. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
• Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
• Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
• Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
• Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
• Notice of adoption of temporary rules.
• Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the State Register but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The State Register publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

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Issues 14-25, inclusive Issues 40-51, inclusive
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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

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

If, during the 30-day comment period, seven 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 § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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.

Department of Public Welfare Social Services Division

Proposed Amendment and Repeal of Rules Governing Community Social Services or Programs

Notice is hereby given that the State Department of Public Welfare proposes to amend or repeal the portions of all applicable department rules which mandate counties to provide specific community social services or programs, unless state or federal law requires the commissioner to mandate a service or program. As provided by Laws of Minnesota 1982, Chapter 607, the commissioner is exempt from the rulemaking provisions of Minnesota Statutes Chapter 15 in amending or repealing these rules.

The specific rules which are to be amended or portions repealed according to the provisions of the Laws of Minnesota, Chapter 607, are:

- 12 MCAR § 2.202 Employability Services
- 12 MCAR § 2.208 Family Planning Services
- 12 MCAR § 2.209 Day Care for Children
- 12 MCAR § 2.215 Money Management Services

The specific amendments and repealed portions of these rules are given following this notice.

Persons interested in these rules shall have 30 days following the date of the publication of this notice to submit comments on these rules. Comments should be submitted to:

J. Philip Peterson
Department of Public Welfare
Social Services Division
4th Floor, Centennial Building
St. Paul, Minnesota 55155

The commissioner shall take no final action until after the close of the comment period. The commissioner's actions shall not be effective until five days after the commissioner publishes notice of adoption in the *State Register*.

The commissioner shall provide all county boards a separate notice of all final actions which become effective under Laws of Minnesota 1982, Chapter 607. This notice shall advise the boards with respect to services or programs which have now become optional, to be provided at county discretion.

November 22, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rules as Proposed

12 MCAR § 2.202 Employability services.

A. Introduction. The objective of employability services is to provide individuals with the training skills and social services necessary to maximize their employability potential and to assist them in obtaining, maintaining and improving employment.

Such services are needed by the underemployed, the unemployed, the unskilled individuals who have never been part of the labor force, individuals who are socially or economically disadvantaged, individuals with poor job histories, the undereducated, and persons with physical and/or mental handicaps.

1. Definitions.

a.-b. [Unchanged.]

e. ~~Non-WIN employability program: A program of employability services, authorized and funded through Title XX of the Social Security Act, which provides Aid to Families with Dependent Children (AFDC) recipients with employability opportunities which fall beyond the scope and function of other programs, such as the Work Incentive Program (WIN) and the Division of Vocational Rehabilitation (DVR) programs.~~

d. ~~Public Assistance/Vocational Rehabilitation Joint Action (PA/VR): A cooperative effort by Minnesota Division of Vocational Rehabilitation (DVR) and the Minnesota Department of Public Welfare (DPW) to provide physically, mentally and emotionally handicapped individuals with the training skills and supportive services necessary to maximize their employability potential.~~

e.-f. [Unchanged.]

2. Resources. Local social service agencies shall be responsible for the administration and delivery of services to Aid to Families with Dependent Children (AFDC) recipients under the WIN ~~and non-WIN (Title XX)~~ program. State laws also mandate work relief programs for General Assistance (GA) recipients who are unable to find employment through existing employment resources. ~~In addition, local social service agencies have an ongoing responsibility to identify and refer to the Minnesota Division of Vocational Rehabilitation (DVR) those individuals who could benefit from vocational rehabilitation services.~~

B. [See Repealer.]

C. [Unchanged.]

D. [See Repealer.]

E. [Unchanged.]

12 MCAR § 2.208 Family planning services.

A. [Unchanged.]

B. Administrative conditions.

1. The local social service agency's family planning service ~~shall~~ may include one or more of the following components:

a. counseling service to help clients decide whether they wish to use a family planning method;

b. facilitative service, such as transportation and child care, to enable clients to avail themselves of family planning services; and

c. information about where medical contraceptive service can be obtained; and assistance in obtaining the service.

2. The local social service agency ~~shall~~ may establish public information programs to inform the community and potential clients about the availability of family planning services from the agency.

C. Individuals to be served.

1. Family planning services ~~shall~~ may be offered to all recipients of Aid to Families with Dependent Children (AFDC) and ~~shall~~ may be provided to all such recipients who request it.

2.-4. [Unchanged.]

12 MCAR § 2.209 Day care for children.

A. Introduction.

1. This rule governs the administration and provision of day care services by local social service agencies for children and their families when the local social service agency elects to provide day care service.

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

PROPOSED RULES

2. The authority for this rule and for the administration of day care services for children is found in: Minnesota Statutes ~~256.01, 256.011, sections 256E.02, 256E.03, and 256E.05, and 15.0412, subdivision 3; Public Laws 93-647 and 94-401; and 45 CFR Sections 228.13 and 228.42.~~

3. Definitions.

- a. Child—A person 14 years of age or younger.
- b. Child development training—Training by an accredited institution or courses approved by the local social service agency designed to maintain or improve the quality of care for children.
- ~~c. Certification—The action taken by the state or county agency to indicate that a day care service provider meets federal day care requirements.~~
- ~~d. Certified day care provider—A direct day care service provider who has received certification by the state or federal day care requirements.~~
- e. Commissioner—The Commissioner of Public Welfare.
- f. Day care resource—Any person or entity providing direct or indirect day care services.
- g. Day care service—The less than 24-hour-a-day service which provides care for children as a substitute for or supplement to parental care for a planned period of time.
- h. Direct day care service provider—A person or entity who provides care for one or more children for pay in a home or center as a substitute for the parent(s) of the children.
- i. Indirect day care service provider—A person or entity which provides support services to direct day care service providers, including training, planning and coordination, toy lending libraries, health services which are intended to improve the quality of care for children.
- ~~j. In-home day care—Day care services in the child's own home.~~
- ~~k. Lead agency—An agency designated by the commissioner as having primary responsibility for the local child care advisory committee.~~
- ~~l. Local child care advisory committee (CCAC)—A citizens' group approved by the commissioner to advise the local social service agency on day care services.~~
- m. Local social service agency—County Board of Commissioners or other agency designated by the county board as responsible for social services.
- n. State agency—Minnesota State Department of Public Welfare.

B. Resource development.

1. [See Repealer.]
2. [Unchanged.]

C. Day care regulations—The local social service agency shall provide the following services to individuals and groups that plan to be licensed ~~and/or certified~~ as a day care providers.

1. [Unchanged.]
2. [See Repealer.]

D. Service delivery. The local social service agency must meet the following standards in providing services to all social service clients where day care is a needed service:

1. The local social service agency shall maintain a staff to fulfill the responsibilities described in ~~this rule~~ 12 MCAR § 2.209.
2. The local social service agency shall make available supportive services for children in direct day care resources to assure quality of care for children in the facility or home.
3. The local social service agency shall maintain an accurate resource file on all day care ~~and~~ and child development services and resources in the geographic area to be served.
4. The local social service agency shall make available services to assist parents in planning for the day care placement of their children to assure services that meet the children's individual needs.
 - a. The local social service agency shall inform the ~~parent(s)~~ parent or parents about the eligibility requirements for financial assistance with the payment of day care services as described in the agency's social service plan.

b. The local social service agency shall plan with the ~~parent(s)~~ parent or parents to develop the child's service plan as a basis for selecting a ~~certified licensed~~ day care center or provider that has a program and environment that meets the child's individual developmental needs.

c. The following procedures shall be used to select the day care providers for children needing day care services.

(1) The local social service agency shall recommend ~~at least~~ where possible two ~~certified licensed~~ resources or providers that meet the child's programmatic needs and the parents' transportation needs.

(2) The ~~parent(s)~~ parent or parents shall be given the opportunity for a preplacement visit with each day care provider recommended by the agency.

(3) The ~~parent(s)~~ parent or parents shall be given an opportunity to recommend to the local social service agency which day care he/or she wishes to use for the care of the child or may recommend an alternative that meets ~~certification~~ licensing standards and more nearly fits the family and child's needs.

(4) The local social service agency shall make available day care services in the day care resource (center, family day care home or in-home provider) selected and agreed upon by the agency, the parent(s) and provider, based on the assessed needs of the child as documented in the service plan for the child.

d.-e. [Unchanged.]

E. Training.

1. Provider training.

a. The local social service agency shall assume responsibility for the maintenance and/or improvement of the quality of day care services provided by all family day care and in-home day care providers.

b. The local social service agency shall make available a minimum of twenty-four hours of child development training annually. The training provided shall include courses such as: family life, human growth and development, child rearing, child nutrition, first aid and child care program skills.

~~e. When the local social service agency has been trained, they shall make available a competency-based assessment for each family day care provider who makes application for an assessment. The department shall furnish the necessary materials and training for agency staff to initiate the program.~~

2. Social service agency staff training.

a. The local social service agency shall make available child development training for staff responsible for day care services.

~~a. All day care licensing staff shall complete six hours of child development training each year.~~

b. All new day care licensing staff shall complete six hours of training in the licensing process within six months of their employment on this assignment. ~~This training shall be in addition to the child development training as identified in "a" above.~~

c. Placement workers who work with families in planning day care services shall be given the opportunity to participate in the child development training.

d. Each day care licensor who wishes to improve his/or her skills in assessing the competency of a family day care provider shall be given the opportunity to participate in a competency-based training program.

12 MCAR § 2.215 Money management services.

A. [Unchanged.]

B. Standards of service.

1. The local social service agency electing to offer money management services shall indicate in its annual social service plan the component or components of the service the agency intends to provide.

2. In the delivery of this service, the local social service agency ~~shall~~ may offer to potential clients any one or combination of the following components:

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

PROPOSED RULES

- a. consumer education;
- b. financial counseling; and
- c. debt adjustment service.

3. The local social service agency may offer, upon approval of the Department of Public Welfare, such other components in the delivery of money management services as are consistent with state and federal laws.

C. Money management service in the use of protective and vendor payments.

1. Upon referral from the Income Maintenance Division of the local welfare agency, the local social service agency ~~shall~~ may determine the need for a protective or vendor payment arrangement for public welfare clients.

2. In making such determinations, the local social service agency shall:

- a. make an assessment of the problem;
- b. offer money management services to resolve the problem;
- c. determine if protective or vendor payments are needed.

3. [Unchanged.]

4. When it is established that money management services are not adequate to resolve the problem, the local social service agency ~~shall~~ may recommend to the referring party the establishment of protective or vendor payments.

5. [Unchanged.]

6. The local social service agency ~~shall~~ may continue to offer money management services to assist the client to resume total responsibility for managing his/ or her grant.

7. The local social service agency ~~shall~~ may review the need for protective/ or vendor payments quarterly and inform the referring party whether there is a need to continue protective or vendor payments.

8. Protective and vendor payments in AFDC cases ~~shall~~ may not continue for more than two years, and are subject to a fair hearing appeal by the recipient.

9. In AFDC cases, the local social service agency ~~shall~~ may recommend appointment of a guardian or other legal representative if money management problems are not resolved after two years of protective/vendor payments.

Repealer. The following rules are repealed: 12 MCAR § 2.202 B.1.-4. and D.1.-3. and 12 MCAR § 2.209 B.1.a.-c. and C.2.a.-E.

ADOPTED 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 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 Energy, Planning, and Development (Energy Agency)

Adopted Rules Governing the Home Energy Disclosure Program

The rules proposed at *State Register*, Volume 7, Number 2, pages 50-51, July 12, 1982 (7 S.R. 50) and published at *State Register*, Volume 6, Number 20, pages 922-937, November 16, 1981 (6 S.R. 922) are adopted with the following modifications:

Rules as Adopted**6 MCAR § 2.2502 Definitions.**

A. Scope. For the purposes of 6 MCAR §§ 2.2501-2.2510, the following terms have the meanings given them.

A. [Reletter as B.]

~~B.~~ C. Agency. "Agency" means the ~~Minnesota Energy Agency~~ Energy Division of the Department of Energy, Planning, and Development.

C.-F. [Reletter as D.-G.]

~~G.~~ H. Economic feasibility. For the purpose of these rules, the test of economic feasibility is met when the savings in energy procurement costs, based on residential energy costs as certified by the commissioner ~~or the director~~ in the *State Register*, or on local fuel costs, exceed the cost of acquiring and installing each individual program measure, as amortized over the subsequent ten-year period.

H.-K. [Reletter as I.-L.]

M. HED. "HED" means home energy disclosure.

L.-N. [Reletter as N.-P.]

~~Q.~~ Q. Renewable resource measures. "Renewable resource measures" means the following measures installed in or connected to a residential building:

2. passive solar space heating and cooling systems that make efficient use of, or enhance the use of, natural forces—including solar insolation, winds, nighttime coolness and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective or radiant energy transfer. Passive solar systems include only:

c. solar/sunspace systems consisting of structures of glass, fiberglass or similar transparent material which is attached to the south-facing wall of a structure which allows for air circulation to bring heat into the residence and which is able to be closed off from the residential structure during periods of low solar ~~insulation~~ insolation.

P.-S. [Reletter as R.-U.]

6 MCAR § 2.2504 Conducting the evaluation.

G. Disclosure. ~~The following~~ A disclosure using the following language or similar language shall be included in any report prepared pursuant to D., E., or F.:

"The energy cost savings estimates you receive are based on systems which may be somewhat different from the ones you purchase. Also, these estimates were not determined using actual conditions but by using simulated measurements. Therefore, the cost savings we have estimated may be different from the savings which actually occur."

6 MCAR § 2.2505 Presentation of evaluation results. Upon completion of the evaluation, the evaluator shall provide the following information in writing to the seller or the seller's agent:

E. the following a disclosure using the following language or similar language: "The procedures used to make these estimates are consistent with the ~~Minnesota Energy Agency~~ Department of Energy, Planning, and Development criteria for residential energy audits. However, the actual installation costs you incur and energy cost savings you realize from installing these measures may be somewhat different from the estimates contained in this audit report. Although the estimates are based on measurements of your house, they are also based on assumptions which may not be appropriate for your household."

6 MCAR § 2.2507 Qualification procedures for evaluators.

C. Certification. Only those persons who satisfy all of the following conditions shall be certified:

2. All persons shall submit a \$50 certification fee to the ~~Minnesota Energy Agency~~ Energy Division, Department of Energy, Planning, and Development. However, no certification fee shall be charged for certified municipal building officials who are directly employed by a municipality as defined in Minnesota Statutes, section 16.84, subdivision 3, or for employees of private nonprofit community-based organizations, when the evaluations are performed as part of the employee's normal job responsibilities.

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ADOPTED RULES

a. No certification fee shall be charged for those persons upgrading their certification who were certified prior to July 1, 1981.

b. ~~The Minnesota Energy Agency may charge a fee for those persons seeking to be recertified.~~

3. All persons shall provide evidence satisfactory to the agency of liability and of errors and omissions insurance. The minimum value of protection in each category shall be \$50,000, and the insurance shall be of the "occurrence" variety where coverage is based on the date when the evaluation is made. A "claims made" policy with a reporting endorsement of at least five years is also acceptable. Coverage shall not be required for evaluators who are employed by municipal governments and who perform evaluations as part of their normal job responsibilities. Certified evaluators who have provided a bond to the state as required by the Building Code Division of the Department of Administration shall not be required to obtain the protection required by this paragraph until that bond expires. Bonds shall not be renewed for the purposes of the HED program. In addition, each insurance policy shall:

a. name the state of Minnesota as a coinsured party-, and

b. be written by a corporate ~~surety~~ insurer licensed to do business in the state of Minnesota, or licensed in accordance with Minnesota Statutes, sections 60A.195 to 60A.209.

6 MCAR § 2.2508 Recertification of evaluators.

B. Recertification procedure. Each year, each evaluator shall be recertified. The following procedures shall be completed in order for an evaluator to be recertified.

3. Persons requesting recertification shall pay a \$25 fee to the Energy Division of the Department of Energy, Planning, and Development.

~~3-~~ 4. This recertification shall occur annually, for the life of the program.

6 MCAR § 2.2509 Decertification of evaluators.

A. Insurance. Certification shall be automatically revoked upon receipt of written notice by the department of cancellation or expiration of the insurance protection required in 6 MCAR § 2.2507 C.3.

6 MCAR § 2.2510 Calculation procedures. The following procedures shall be the basis for calculating energy savings for program measures.

A. Energy conserving measures.

1. General energy savings equations. The following equations shall be used to calculate energy savings for the practices and measures listed below, except for those that are already termed in E.

11. Water heater insulation.

a. If water heater is in an unconditioned space.

$$\text{Equation \#12.} \quad \Delta E = \frac{8760A \left(\frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N, V}$$

$$\Delta E = \frac{8760A \left(\frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N, V}$$

b. If water heater is in a conditioned space.

$$\text{Equation \#13.} \quad \Delta E = \frac{H * A * \left(\frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N, V}$$

$$\Delta E = \frac{H \times A \times \left(\frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N \cdot V}$$

[No changes in remainder of 11.]

12. Storm and thermal windows.

Equation #14.
$$\Delta H = \left(\frac{1}{R_o} - \frac{1}{R_i} \right) \times A$$

$$\Delta H = \left(\frac{1}{R_o} - \frac{1}{R_i} \right) \times A$$

[No changes in remainder of 12.]

18. Passive solar systems.

d. Window heat gain retardants. Same as Equation #14.

21. Install positive shut-offs for all fireplaces or fireplace stoves.

Equation #23.
$$\Delta H = 1.08 (Q_o - Q_i) A$$

$$\Delta H = 1.08 (Q_o - Q_i) A$$

[No changes in remainder of 21.]

Repealer. Rules 2 MCAR §§ 1.16201-1.16207 and 1.6220-1.6230 are repealed.

Department of Health Environmental Health Division

Adopted Rules Governing License and Renewal Fees for Food, Beverage and Lodging Establishments

The Department of Health adopts the following fee increases in accordance with the provisions of Minn. Stat. § 15.0412, subd. 4 (1980) as amended by Laws 1981, chap. 357, § 25, and § 16A.128 (Supp. 1981) as amended by Laws 1981, 3rd s.s., chap. 2, art. 1, § 11. All fee increases have been approved by the Commissioner of Finance.

Rules as Adopted

7 MCAR § 1.155 Initial and renewal license fees: license expiration dates.

A. Fee schedule. License applications for lodging establishments as defined in 7 MCAR § 1.151 shall be accompanied by the applicable fee as determined from the following fee schedule.

Fee Schedule	
Number of Sleeping Rooms	Fee
1-18	\$ 23.00 \$ 46.00
19-35	\$ 45.00 \$ 90.00
36-100	\$ 60.00 \$120.00
101 and over	\$ 75.00 \$150.00

B.-E. [Unchanged.]

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ADOPTED RULES

7 MCAR § 1.165 Initial and renewal license fees: license expiration dates.

A. Fee schedule. Initial and renewal license applications for food and beverage establishments as defined in 7 MCAR § 1.162 shall be accompanied by the applicable fee as determined from the schedule below. The average number of employees shall be computed in accordance with Minnesota Statutes, section 157.03.

Food or Beverage Establishment Fee Schedule		
Number of Employees	Fee	
1- 4	\$ 21.00	\$ 42.00
5-18	\$ 36.00	\$ 72.00
19-28	\$ 54.00	\$108.00
29-35	\$ 75.00	\$150.00
36 and over	\$ 90.00	\$180.00
limited or temporary food service	\$ 15.00	\$ 30.00

B.-E. [Unchanged.]

Board of Peace Officer Standards and Training

Adopted Rules Governing Affirmative Action Plans and Remedial Examination Procedures

The rules proposed and published at *State Register*, Volume 7, Number 12, pages 342-343, September 20, 1982 (7 S.R. 342) are adopted as proposed.

SUPREME COURT

Decisions Filed Friday, December 3, 1982

Compiled by John McCarthy, Clerk

82-1321 *State of Minnesota v. Joel Norman Kraft*, Appellant. Washington County.

Sentence, which placed defendant convicted of criminal negligence resulting in death on probation on condition that he serve 6 months in jail, was a proper sentence under the Minnesota Sentencing Guidelines and, notwithstanding defendant's medical condition, did not constitute cruel and unusual punishment, where the trial court specifically provided that it would release defendant from jail at any time that treatment, mental or physical, was needed.

Affirmed. Amdahl, C. J.

81-715 *State of Minnesota v. Michael John Phelps*, Appellant.

Trial court did not prejudicially err in admitting statements challenged by defendant as having been obtained in violation of his right to counsel.

Trial court did not improperly limit defendant in his attempt to show that state's principal witness, not defendant, committed the murder.

Trial court in murder prosecution properly declined to submit lesser offenses of third-degree murder and first-degree manslaughter and properly refused to give specific instructions on duress and mere presence at the scene.

Trial court did not coerce jury into rendering the verdict.

Affirmed. Peterson, J.

81-491, 81-530 *State of Minnesota*, Appellant, (81-491) Respondent (81-530) v. *Ming Sen Shiue*, Respondent (81-491) Appellant (81-530). Anoka County.

Under the facts of this case the contact between the jury and the trial judge was not prejudicial to the defendant.

The attack in open court by the defendant in the presence of the jury upon a prosecution witness did not mandate the granting of a mistrial.

The trial court's departure from sentencing guidelines by imposing a sentence of 3.4 times the presumptive sentence was justified. The concealment of a victim's body by the defendant is an appropriate aggravating circumstance to be considered by the trial judge in justifying a departure from the presumptive sentence.

Affirmed. Todd, J.

82-358 Commissioner of Natural Resources of the State of Minnesota, Appellant, v. Lac Qui Parle County Public Waters/Wetlands Hearings Unit, Respondent-Below, Gerald Dove, *et al.*, Gary Nygard, *et al.*, Gerald Wollschlager, *et al.*, Harlien Harwick and Gordon Harwick. Lac Qui Parle County.

Reversed. Todd, J.

81-1369 State of Minnesota v. Roger Olson, Appellant. Hennepin County.

Evidence was sufficient to sustain defendant's conviction of being a felon in possession of a pistol, and trial court did not prejudicially err in any of its rulings relating to admissibility of statements defendant made to police.

Affirmed. Wahl, J.

81-1302 Shirley M. Pederson, as Trustee for the Heirs of Leo T. Pederson, etc., Appellant, v. Rose Cooperative Creamery Association, Defendant and Third Party Plaintiff, Harold O. Johnson, defendant and third party plaintiff, Herbert A. Johnson, defendant and third party plaintiff, Edward Konietzko, Defendant and Third Party Plaintiff, v. Shirley M. Pederson, individually, third party defendant and third party plaintiff, Appellant, v. Land O'Lakes Creamery Association, Third Party Defendant. Todd County.

When multiple claims for relief and multiple parties are involved in an action, a judgment purporting to settle the entire action contrary to the clear intent of the parties will be vacated and said judgment ordered corrected, to reflect the clear intent of the settling parties.

Judgment vacated, new corrected partial judgment to be entered, and case remanded for trial on the remaining issues. Scott, J.

81-852 State of Minnesota v. Donald Dean Jacobson, Appellant. Olmsted County.

Evidence discovered after an arson trial that a person other than the defendant may have set fire to defendant's bar meets the requirements for newly discovered evidence and requires a new trial.

Reversed and remanded for a new trial. Simonett, J. Took no part, Kelley, J.

82-590 James R. Bettenburg, Relator, v. Workers' Compensation Division, Department of Labor and Industry, and Christopher A. Ross, v. Halvorson Construction and Great American Insurance Company. Workers' Compensation Court of Appeals.

The Workers' Compensation Court of Appeals has jurisdiction under Minn. Stat. § 176.081 (Supp. 1981) to review and modify a compensation judge's award of attorney fees pursuant to section 176.081, subd. 1.

Reversed. Kelley, J. Took no part, Yetka, J.

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 contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

State Designer Selection Board

Request for Proposal

To Architects and Engineers Registered in Minnesota:

The State Designer Selection Board has been requested to select a designer for the alterations to the National Guard Armory Facility at Cottage Grove, Minnesota. Design firms who wish to be considered for these projects should submit proposals on or

STATE CONTRACTS

before 4:00 p.m., January 12, 1983, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
 - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

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

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
 - b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
 - c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.
6. Design firms wishing to have their proposals returned after the board's review must follow one of the following procedures;
- a) Enclose a self-address stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.
 - b) Enclosed a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

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

7. PROJECT 7-82

Alterations to National Guard Armory Facility
Cottage Grove, Minnesota
Estimate Cost: \$507,000.00

a) Description of the Project:

1) General: The project consists of alterations to accommodate an indoor firing range, vaults, showers, energy conservation measures (block windows, replace roof). Exterior work includes the construction of a wash stand, bituminous parking area, landscaping and seeding.

2) Location: The project is located at the former Grove Elementary School, Cottage Grove, Minnesota.

3) Existing Building Construction: Single story; slab on grade floors; concrete block walls faced with brick on the building exterior; interior wall surfaces exposed block, painted; precast concrete roof system; metal doors and door frames; exposed concrete ceiling in the gymnasium, suspended ceiling in the classroom. The existing building is similar to typical school construction.

4) Topographic Survey: Owner will provide.

5) Soil Tests: Architect will arrange for. Owner will pay costs of soil tests.

6) Estimated Project Construction Cost: \$507,000.00.

b) Work to be performed by the Designer: The work basically includes the design of the alterations to the existing facility, the preparation of required drawings, specifications and allied documents to include bidding documents for same; the bid opening; the handling of contract documents; the general supervision of the construction work for the Owner; preparation of change orders; review and approval of shop drawings and payment requests; assistance in final acceptance of the work.

c) Architect's Fee for the Work: Government established at 5.4% of the construction cost of the work. In fulfilling this contract, the Designer will be carrying out basic plan designs furnished by the Owner. Preliminary work by the Designer will be minimal insofar as trial designs and presentations are concerned. The preliminary drawings for the work will be basically the final working drawings, partially completed. The work does not involve the Corps of Engineers in any way. The specification format will be Designer's normal for commercial work, tailored to the project.

The Designer for the work will work directly with the Department of Military Affairs, Facilities Management Officer, Major Wayne A. Johnson, Camp Ripley, Little Falls, Minnesota 56345, telephone (612) 632-6631, extension 315. All questions relative to this project should be referred directly to him.

Fred W. Kegel, Chairman
State Designer Selection Board

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 Agriculture Plant Industry Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Rules Governing Seed Potato Certification

Notice is hereby given that the Minnesota Department of Agriculture has begun to consider amendments to rules governing the Seed Potato Certification program. Rules 3 MCAR §§ 1.0127-1.0135 presently govern this matter.

In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed amendments to the rules.

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

Written statements of information and comment may be addressed to:

Robert Flaskerd, Director
Plant Industry Division
Minnesota Department of Agriculture
90 West Plato Blvd.
St. Paul, MN 55107

OFFICIAL NOTICES

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3347, and in person at the above address.

All statements of information and comment must be received by January 12, 1983. Any written material received by the department shall become part of the hearing record.

The proposed amendments, if adopted, would include the following changes to the Red Tag grade: change the Red Tag to Yellow Tag; eliminate pressure bruising and sunburn as grade factors; eliminate sprouts as a grade factor after April 15; and increase the tolerance for serious damage by hollow heart from 10% to 20%.

December 3, 1982

Mark W. Seetin
Commissioner

Department of Health Health Services Division

Delivery of Report on Voluntary Price Reporting: Public Notice

Chapter 614 of Minnesota Laws 1982 addresses the problem of rising health care costs, in part by encouraging voluntary efforts among hospitals and health care professionals to make prices available to the public and to promote price competition for health care services.

The statute directs the Commissioner of Health to encourage voluntary price reporting activities and to report to the Legislature by January 2, 1983 with an assessment of progress. Only for groups whose progress is not satisfactory will price reporting become mandatory.

Section 13 of Chapter 614 requires that public notice be given of the date of delivery of the report by the Commissioner of Health to the Legislature. This report will be delivered on Thursday, December 30, 1982.

December 3, 1982

George R. Pettersen, M.D.
Commissioner of Health

Department of Health Health Services Division

Evaluation of Certificate of Need Program: Final Economic Performance Indicators

The 1982 amendments to the Certificate of Need program required that industry economic performance indicators be defined and observed over time for the purpose of monitoring the Certificate of Need program and assessing the impact of the 1982 modifications.

Proposed economic indicators were published in the September 20, 1982 *State Register*, with a request for public comment. The following presents the comments received, and the response of the Department of Health.

The Minnesota Hospital Association responded with the recommendation that the evaluation consider the cost of the Certificate of Need process—in particular the costs imposed upon regulated institutions.

The Department of Health believes this is a meritorious suggestion. To the extent that measures or indicators are available, the costs of the Certificate of Need process will be considered in the evaluation.

The Minnesota Medical Association responded with two general suggestions and a number of specific comments. One general suggestion was that the Department of Health submit to the Legislature in conjunction with the evaluation a survey of published CON evaluations, reviewing the types of evaluation performed, their conclusions, and their limitations. A second general suggestion was that the evaluation study be submitted in a timely fashion, to allow adequate time for review by interested parties and input into the legislative process.

With respect to the first suggestion, the Department of Health agrees that there is value in placing the current evaluation in the context of a broader body of work. It is felt that a *general* review of cross-state empirical studies is sufficient, with more attention paid to state-level case studies of Certificate of Need Programs. Such a review will accompany the evaluation report prepared for the Legislature. With respect to the second suggestion, the target date for completion of the draft evaluation report is September 30, 1983.

The Minnesota Medical Association's specific comments, with the Department of Health responses, are as follows:

1. Section A—should be subdivided into "Activity Subject to CON Review Before the 1982 Amendments" and "Activity Subject to CON Review After the 1982 Amendments."

Response: An explicit subdivision is not needed. These before and after comparisons are implied in the proposed analysis of changes in various indicators over time, as described in the last paragraph of the September 20 draft indicators.

2. Section A, 2—Add a sub-item which reviews the type of changes made in proposals during the CON process.

Response: To the extent that such information is available, it will be considered.

3. Section A, 2—Add a new sub-item which records the length of time it takes for a CON review.

Response: Length of time taken for a CON review will be added for consideration in the evaluation.

4. Section A, 3—Add a new sub-item which reports re-submissions of projects for review under CON.

Response: Re-submissions are a very infrequent occurrence. However, to avoid double counting, re-submissions will be identified.

5. Section D—"Health System Characteristics"—This section is quite limited and focuses on hospital costs. Other information which could be included:

1. Various cost indices (e.g., Consumer Price Indices, Medical Care Price Indices, for Minnesota and the U.S.).

2. Information on where health care dollars come from and go to (e.g., where hospitals receive their funds, where it goes).

Response: While it is difficult to attribute causality to the CON program in its complex environment, we agree that it is useful to describe the overall system in terms of changes in prices and expenditures, and to observe correlations between changes in CON and changes in system aggregates. Price indices and aggregate expenditure figures will be examined in the evaluation. To the extent that information is available for relevant time periods on sources and uses of funds, it too will be examined.

6. Section D, 1—In addition to Total Licensed beds, beds set-up and staffed should be included.

Response: Staffed beds will be added for consideration in the evaluation.

7. Section D, 4—This item should be listed as "total revenue" rather than "total hospital revenue".

Response: To maintain the focus on facilities, the item will read "total facility revenue".

The industry economic performance indicators published in the September 20, 1982 *State Register*, as revised and expanded above, will be used to monitor the Certificate of Need program and assess the impact of the 1982 amendments.

December 3, 1982

George R. Pettersen, M.D.
Commissioner of Health

Hennepin County

Notice of Filing Fees for the County Law Library

Pursuant to Laws of Minnesota 1982, Chapter 576 the Hennepin County Law Library Board of Trustees announces the law library fees to be collected in the district, county, municipal, probate and conciliation courts of Hennepin County.

Civil Suits

Plaintiff/Petitioner	\$7.00 (no change)
Defendants/Respondents/Intervenors (jointly or separately)	\$5.00 (no change)
Probate Court	
Petitioner	\$5.00 (no change)
Conciliation Court	
Petitioner	\$3.00 (new fee)
Respondent	\$3.00 (new fee)

These fees shall be in effect January 1, 1983.

December 2, 1982

Metropolitan Council

Notice of Public Hearing on Proposed Amendments to the 208 Areawide Plan/Development Guide for Water Quality Management

The Metropolitan Council will hold a public hearing on Thursday, January 6, 1983, at 2 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Sts., St. Paul, Minnesota 55101, for the purpose of receiving public comments on the amendments to the Water Resources Management Policy Plan, Part I. These amendments to the plan/development guide, when adopted, will update the current Water Resources Management Development Guide/Policy Plan and will fulfill federal requirements as the Region's water quality plan under Section 208 of Public Law 92-500. The proposed changes, which will affect the following treatment plants, interceptors and communities, involve:

- Authorizing required engineering and environmental studies and a dechlorination project for the Metropolitan Wastewater Treatment Plant in St. Paul.
- Revising the schedule for expanding the Hastings Wastewater Treatment Plant in Hastings.
- Phasing out the Medina Wastewater Treatment Plant in Medina.
- Removing conditions on the approval of: the Ramsey Interceptor (serving the Rum River watershed), the Blaine Interceptor (serving the eastern part of the city of Blaine), and the Lino Lakes Interceptor (serving the city of Lino Lakes).
- Acquiring and extending trunk sewer lines for interceptors in the cities of New Brighton and Mendota Heights.
- Providing a forcemain relief system from the Lake Virginia Lift Station to the Purgatory Creek Interceptor rather than constructing the Lake Ann Interceptor.

All interested persons are encouraged to attend the hearing and offer comments on the amendments to the proposed plan/development guide. Persons wishing to speak at the hearing may register in advance by contacting the Council's public hearing coordinator at 291-6482. Those who register first will be scheduled to speak first. Written comments may also be submitted until January 20, 1983. Copies of the amendments to the proposed plan/development guide are available for public inspection, beginning Tuesday, Dec. 7, 1982 at the following locations:

Metropolitan Council Library
300 Metro Square Building
7th and Robert Sts.
St. Paul, MN 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis, MN 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth Street
St. Paul, MN 55102

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, MN 55434

Carver County Library—Chaska Branch
314 314 Walnut Street
Chaska, MN 55318

Dakota County Library—Burnsville Branch
1101 W. County Rd. 42
Burnsville, MN 55337

Hennepin County Library—Southdale Branch
7001 York Avenue
Edina, MN 55435

Ramsey County Library—Roseville Branch
2180 N. Hamline Avenue
Roseville, MN 55113

Scott County Library—Shakopee Branch
235 S. Lewis Street
Shakopee, MN 55379

Washington County Library—Park Grove Branch
7520-80th Street S.
Cottage Grove, MN 55106

Copies of the amendments may be obtained free of charge from the Council's Public Information Office at the above address; telephone 291-6464.

Chairman
Metropolitan Council

Minnesota State Retirement System

Regular Meeting, Board of Directors

The regular bi-monthly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, December 17, 1982, at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

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Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action. House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

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