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# STATE REGISTER

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### 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 8			
8	Monday Aug 8	Monday Aug 15	Monday Aug 22
9	Monday Aug 15	Monday Aug 22	Monday Aug 29
10	Monday Aug 22	Monday Aug 29	Monday Sept 5
11	Monday Aug 29	Monday Sept 5	Monday Sept 12

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

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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### 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* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* 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:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

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**EXECUTIVE ORDERS****Executive Order No. 83-31****Providing for the Establishment of the Governor's Council on Rural Development****Amending Executive Order No. 83-5**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, Executive Order No. 83-5 was issued on February 14, 1983, providing for the establishment of the Governor's Council on Rural Development; and

WHEREAS, it is necessary to amend and clarify Executive Order No. 83-5;

NOW, THEREFORE, I order:

Section 4 be amended as follows:

4. The Commissioner of the Department of Energy and Economic Development, with the approval of the Council Chairperson, shall hire an Executive Director who will be in the unclassified state service.

There should also be added a Section 6 to read as follows:

6. The Executive Director and staff shall be located with the Department of Energy and Economic Development for the purposes of administrative, fiscal, and personnel support and direction.

Pursuant to Minnesota Statutes 1982, section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with section 4.035, subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 28th day of July, 1983.



## **EXECUTIVE ORDERS**

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### **Emergency Executive Order No. 83-30**

#### **Providing for Emergency Assistance to Officials of Anoka and Hennepin Counties**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, officials of Anoka and Hennepin Counties requested assistance in preserving life and property in their counties as a result of serious damage caused by tornadoes, high winds and other adverse weather conditions; and

WHEREAS, Anoka and Hennepin Counties and other local officials have exhausted all available resources in their efforts to preserve life and property from destruction caused by such adverse weather conditions; and

WHEREAS, it is necessary for the preservation of life and property in Anoka and Hennepin Counties that the state provide assistance to those county and local officials;

NOW, THEREFORE, I order:

1. The Adjutant General of Minnesota shall order to active duty on and after July 3, 1983, in the service of the state, such elements of the military forces of the state as are necessary to assist Anoka and Hennepin County and local officials in preserving life and property. Those forces shall be utilized for such a period of time as is necessary to preserve life and property.

2. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the state as provided for in Minnesota Statutes 1982, sections 192.49, subdivision 1; 192.51; and 192.52.

This Order is effective retroactively to July 3, 1983, and shall remain in force until such date as elements of the military forces of the state are no longer required.

IN TESTIMONY WHEREOF, I hereunto set my hand this 5th day of July, 1983.



### **Executive Order No. 83-29**

#### **Providing for an Organization for Oversight and Management of a Statewide Labor Market Information System**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, section 125(A) of the Job Training Partnership Act of 1982 requires the Governor of each state to designate an organizational unit to oversee and manage a comprehensive statewide labor market and occupational demand/supply information system; and

WHEREAS, under the new legislation each state is responsible for the design and operation of a cost-effective labor market information system that is not only responsible to user needs, but must meet federal standards stipulated in chapter 35 of Title 44, United States Code and other appropriate federal standards established by the Bureau of Labor Statistics of the United States Department of Labor; and

WHEREAS, the effective administration of programs under the Job Training Partnership Act, Wagner-Peyser Act, Vocational Education Act, Vocational Rehabilitation Act, and Minnesota's Unemployment Insurance legislation require the standardization of federal and state multi-agency administrative records and the reduction in duplicative surveys to produce data for labor market and economic analysis; and

WHEREAS, the Minnesota Department of Economic Security has an extensive and efficient system for the collection, production, and dissemination of data for labor market and economic analysis to serve the purposes of the Job Training Partnership Act, the Wagner-Peyser Act, the Vocational Rehabilitation Act, and the Vocational Education Act.

NOW, THEREFORE, as required under section 125(A) of the Job Training Partnership Act of 1982, I order:

1. The oversight and management of Minnesota's statewide labor market information system to reside in the Department of Economic Security; and

2. That the Governor's Job Training Council through its LMI Advisory Committee shall provide policy guidance and review to the Department of Economic Security in the development of the statewide labor market information system; and

3. That the Minnesota Occupational Information Coordination Committee (MOICC) and the LMI Advisory Committee of the Governor's Job Training Council will meet and coordinate with each other, as well as with the Departments of Economic Security, Education, and other appropriate organizations to assure that producers and users of labor market and occupational supply/demand information are consulted in the design of the system.

Pursuant to Minnesota Statutes 1982, section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with section 4.035, subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 17th day of June, 1983.



## **Emergency Executive Order No. 83-32**

### **Providing for Assistance to Officials of the Minnesota Department of Health**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

## EXECUTIVE ORDERS

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WHEREAS, the Mosquito Vector, *Culex Tarsalis*, causes the disease Encephalitis that may cause death in infants and elderly persons; and

WHEREAS, Encephalitis epidemics occur during years of frequent, heavy rainfall, high temperatures, and high humidity which are the conditions in Minnesota this year; and

WHEREAS, officials of the Minnesota Department of Health have requested assistance in emplacement and recovery of mosquito traps in a twenty-six county area:

NOW, THEREFORE, I order:

1. The Adjutant General of Minnesota to order to active duty on or after July 25, 1983, in the service of the state, such elements of the military forces of the state as required, and for such period of time necessary to insure the safety of our citizens.

2. Cost of subsistence, transportation and fuel, and pay and allowances of said individuals will be defrayed from the General Revenue of the state as provided for by Minnesota Statutes, section 192.49, subdivision 1; section 192.51; and section 192.52.

This Order is effective retroactively to July 25, 1983, and shall remain in force until such date as elements of the military forces of the state are no longer required.

IN TESTIMONY WHEREOF, I hereunto set my hand this 25th day of July, 1983.





# PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, 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 §§ 14.13-14.20 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. § 14.29, 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 Health Health Systems Division

### Proposed Schedule of Fines for Noncompliance with Correction Orders Issued to Nursing Homes

#### Notice of Comment Period

Minnesota Statutes, § 144A.10, subd. 6, as amended by Laws 1983, chapter 199, section 3, requires that the Commissioner of Health establish before December 1, 1983 a schedule of fines for noncompliance with correction orders issued to nursing homes. Subdivision 6a provides as follows: "The commissioner of health shall propose for adoption the schedule of fines by publishing it in the *State Register* and allowing a period of 60 days from the publication date for interested persons to submit written comments on the schedule. Within 60 days after the close of the comment period, and after considering any comments received, the commissioner shall adopt the schedule in final form. . . ."

Therefore, if you are affected in any manner by the proposed schedule of fines you are urged to submit your written comments during this period. The comment period will close on October 14, 1983.

Comments on the proposed schedule of fines shall be submitted, in writing, to Michael Tripple, Minnesota Department of Health, Survey and Compliance Section 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440. Telephone Number: (612) 623-5448. A free copy of the proposed schedule of fines may be obtained by contacting the Department of Health at (612) 623-5418 or by writing to Mr. Tripple. Questions concerning the proposed schedule of fines should be directed to Mr. Tripple. All comments submitted to the department are considered to be a public record and may be reviewed by visiting the department during normal business hours. After the close of the comment period, all comments received will be reviewed and considered to determine if changes in the proposed schedule are warranted. For that reason, it is suggested that any comments submitted specifically identify the particular section of the schedule in question, identify the problems or concerns with that provision and, if possible, suggest a method for remedying those concerns. Within 60 days after the close of the comment period, the final schedule of fines will be established. The final schedule of fines will be published in the *State Register* and will become effective five (5) days after its publication.

#### Applicability of Provisions

The proposed schedule of fines applies only to those facilities licensed as nursing homes under the provisions of Minn. Stat. §§ 144A.01-.16. The issuance of a fine to a nursing home is governed by the provisions of Minn. Stat. § 144A.10. Briefly, a fine is assessed as the result of the failure to comply with the provisions of a previously issued correction order. The correction order will have identified the deficiency, cited the specific rule or statute violated, provided a suggested method of correction

**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

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and specified a period of time allowed for correction. All fines contained in the proposed fine schedule will accrue on a daily basis in accordance with the provisions of Minn. Stat. § 144A.10, subdivision 6-8. Upon the effective date of this schedule of fines, those provisions of 7 MCAR § 1.057, Schedule of Fines for Uncorrected Deficiencies, which establish fine amounts applicable to nursing homes will be superseded. It should also be noted that the schedule does establish fine levels for violations of the following statutes: Minn. Stat. §§ 144.651-.652, The Bill of Rights; Minn. Stat. §§ 144A.01-.17, the nursing home licensure law; and Minn. Stat. § 626.557, The Vulnerable Adult Abuse Reporting Act. Violations of one of the provisions contained in any of these statutes is subject to the issuance of a correction order by the department. Minn. Stat. § 144A.10, subd. 4. The failure to comply with the correction order will result in the issuance of a fine and as noted in Minn. Stat. § 144A.10, subd. 6 below, the schedule of fines is to include statutory violations.

### Fine levels

Minn. Stat. § 144A.10, subd. 6, as amended states in part: “. . . [I]n establishing the schedule of fines, the commissioner shall consider the potential for harm presented to any resident as a result of noncompliance with each statute or rule . . .” Consistent with this statutory mandate, the proposed schedule was developed in a manner designed to correlate the amount of the fine to the impact on the resident that would result from noncompliance with the rule or statute; i.e., to what extent will the health, treatment, safety, comfort or well-being of a resident be jeopardized by noncompliance with the rule or statute. The proposed schedule consists of 8 levels of fines as follows: \$50, \$100, \$150, \$200, \$250, \$300, \$350 and \$500. The provisions of the law specify that \$500 is the maximum fine that can be assessed. Each fine level is based on criteria which take into consideration the impact of noncompliance on the resident. The following comments will specify the criteria used to establish each fine level and will include examples of the rules and statutes contained in each level.

The minimum penalty assessment of \$50 has been assigned to those rules for which noncompliance with a correction order would not directly jeopardize the health, safety, treatment, comfort or well-being of a resident. Examples of rules which have been placed in this category include the rule requiring that the name of the administrator be posted in the entrance to the facility, the requirement that employees and volunteers wear identification badges, and the requirement that electrical circuit boards be identified with a typewritten index. While these rules are required minimum standards necessary to promote the proper operation of the nursing home, the potential for harm presented to residents as a result of noncompliance is not direct. The department believes that the establishment of the \$50 level as the minimum fine is appropriate. This minimum fine level conforms with the legislative standard that the schedule of fines take into consideration the potential for harm to residents and, at the same time, establishes a sufficient sanction for a nursing home's failure to comply with a correction order. The underlying premise of the correction order/penalty assessment system is to assure that there is an efficient mechanism to promote compliance with the nursing home rules and to assure that the licensee operate the home in accordance with the licensure laws and rules. Each of the rules contained in the \$50 category are duly promulgated minimum standards and compliance with these provisions is a condition of licensure.

The maximum penalty assessment of \$500 has been assigned to those rules and statutes for which noncompliance with a correction order would present an imminent risk of harm to the health, treatment, comfort, safety or well-being to nursing home residents. Continued noncompliance with these rules would create a substantial probability that a resident would be subjected to serious physical, emotional or mental harm. Examples of some of the rules and statutes which have been assigned the maximum fine include the following: the requirement that the nursing home have a registered nurse on call whenever a registered nurse is not on duty in the facility; the requirement that each nursing home have a system to assure that all medications are safely and properly administered; and the requirement that residents be free from mental and physical abuse. The department believes that a violation of these provisions and the other provisions assigned to this fine level justify the maximum fine due to the potential for harm presented to the resident by noncompliance with these provisions. The maximum fine is appropriate and necessary to fully protect nursing home residents.

The intermediate fine levels range from \$100 to \$350 and have been assigned to the rules and statutes for which noncompliance with a correction order has the potential for creating a situation directly jeopardizing the health, safety, treatment, comfort or well-being of residents. Noncompliance with the rules and statutes identified in these intermediate ranges would not, however, present an imminent risk of harm to the resident. In order to fully implement the statutory requirement that the schedule of fines “consider the potential for harm presented to any resident as a result of noncompliance,” the department has established 6 levels of fines which reflect the impact that noncompliance would have on the resident. The greater the potential for harm to the resident, the higher the fine.

The \$100 penalty assessment has been assigned to those rules which relate, in a general nature, to the administration and management of the nursing home. Examples of rules and statutes contained in this category are as follows: the provisions establishing the conditions for the keeping of pets in the nursing home; the provision requiring that the administrator designate an individual to be in charge of the facility during his or her absence; the provision requiring that the nursing home establish a working relationship with a hospital for assuring the development of specific transfer procedures; the provisions requiring that the necessary records for handling resident funds are maintained; the provision that nursing personnel have the opportunity to

attend educational courses; the provision that the nursing home provide at least a 90 day notice to the department in the event that the nursing home plans to cease or curtail operations to the extent that relocation of residents becomes necessary; the provision that the nursing home post and make available copies of the Bill of Rights, and the requirement that the nursing home establish a procedure for the internal investigation of suspected cases of abuse or neglect. The provisions of the above rules and statutes and the remaining items in this section are related to the general administration and management of the facility. While noncompliance with one of these provisions need not necessarily create a substantial risk of harm, the failure to comply has the potential for jeopardizing the health, safety, treatment, comfort or well-being of residents. For example, the failure to comply with the provisions governing the keeping of pets could create a situation where the health and safety of residents is jeopardized by the failure to maintain the pet in good health, the failure to provide proper controls on the areas where pets can have access or the failure to assure that the pets are not a nuisance to the residents. The failure to assure that there is a transfer agreement with a hospital could delay admission to a hospital or result in the necessary information regarding the resident not being received in a timely manner.

The next two fine levels, \$150 and \$200, have been assigned to those rules which relate to the physical environment and physical plant of the facilities. This also includes the rules relating to the furnishing of resident rooms and other areas of the nursing home. The licensure rules establish minimum requirements which are necessary for the proper construction, maintenance, equipping and operation of the nursing home. The rules which have been assigned to these two categories are necessary to ensure that the physical plant and physical environment are maintained in such a manner to fully protect the health, safety, treatment, comfort or well-being of the residents. The failure to comply with the provisions of these rules will deprive residents of the minimum requirements established by the department to assure that an adequately furnished and safe environment is provided. For that reason, noncompliance with the rules in this category will create a situation which could potentially jeopardize the health, safety, treatment, comfort or well-being of residents.

While the rules assigned to these two fine categories relate to similar areas, the impact of noncompliance with the rules on the health, safety, treatment, comfort or well-being of the residents does differ. Therefore, to comply with the requirement that the schedule of fines take into consideration the potential for harm, the \$150 and \$200 categories were developed. The \$150 penalty assessment has been assigned to those rules for which noncompliance would not necessarily impact directly on the health and safety of residents but would impact on the comfort or well-being of the residents. Examples of some of these rules would be the provisions establishing the minimum furnishings for resident bedrooms and the furnishing of other resident-use areas, such as dining rooms and dayrooms. The failure to comply with these provisions would result in insufficient furnishings to the residents and impact on the resident's use of these areas. Also included within the fine level are provisions from the physical plant and construction requirements. These provisions were established to assure that the design of the building and the physical environment of the facility are conducive to the provision of care and adequate to meet the needs of the residents, e.g. the rules would include provisions relating to the number and design of bathing and toilet facilities, the provision of adequate square footage in dining and social activity areas, etc. Noncompliance with these provisions would impact on the comfort and well-being of residents.

The \$200 penalty assessment has been assigned to those rules for which noncompliance could impact on the health or safety of the residents in the facility. Since the potential for harm is greater than the rules contained in the \$150 category, the \$50 increase in the amount of the fine is appropriate. Rules which are designed to promote safety, proper sanitation, or the prevention of infection have also been included in this category. These rules relate to the environment and do have an impact on the health and safety of residents. Examples of rules contained in this category are as follows: The development of a safety program for the facility, the requirement that equipment be maintained in a safe and usable condition, the provision that insecticides and pesticides be kept in locked areas, and the provisions requiring complete separation of soiled and clean linen during the laundry process. Also included within this section are provisions from the physical plant rules which specify the requirements to assure that the physical plant is designed and maintained in a manner to protect the health and safety of residents. Examples of some of these rules include the provisions relating to the design and placement of handrails and grab bars, the provision of non-slip flooring in bathing areas, and maintenance and housekeeping requirements necessary to assure that the physical plant is kept in safe and sanitary condition. Violations of these rules could jeopardize the health and safety of the residents.

The \$250 fine level has been assigned to those rules and statutes which relate to the protection of the individual rights of the residents. These provisions are designed to assure that the individual rights of residents are promoted and protected in the nursing home. A violation of one of these provisions could jeopardize the well-being of residents and could also jeopardize the

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resident's health. The rules are necessary to assure that the residents' rights to privacy and the right to adequate and considerate care are fully protected. Examples of the provisions contained in this category include the provisions prohibiting discrimination, requiring the appropriate authorization to handle residents' funds or business affairs, assuring that the privacy of residents is fully protected and assuring that the potential for the abuse or neglect of residents is minimized by proper reporting of such incidents. The \$250 fine is appropriate to assure that these important interests are fully protected within the nursing home.

The two remaining fine levels, \$300 and \$350 have been assigned to those rules which relate to the provision of care services within the facility, e.g. nursing, dietary, activities, etc. The provisions contained within these rules relate to the primary purpose of a nursing home—to provide nursing care and other services to individuals. The failure to provide these services in accordance with the minimum standards contained in the rules has the potential for jeopardizing the health, safety, treatment, comfort or well-being of residents. The importance of assuring that the mandated services are provided justifies the imposition of the \$300 and \$350 penalty assessments. While the rules contained in this section all relate to the provision of care services to the residents, the impact of noncompliance on the health, safety, treatment, comfort or well-being of residents does differ. Therefore, to comply with the requirement that the schedule of fines take into consideration the potential for harm, the two fine levels were established.

The \$300 penalty assessment has been assigned to those rules which are necessary to assure that the service is properly provided, e.g. staffing, general orientation and inservice requirements, development of policies and procedures governing the provision of care, availability of equipment and supplies, etc. Noncompliance with these rules would affect the quality of care that is provided to the residents. Examples of rules contained in this category are as follows: the requirements relating to the safe administration of oxygen, the maintenance of the necessary records to monitor the health of residents, the responsibilities of the director of nursing, and proper medication controls. These rules are directly related to the actual provision of the service and compliance with these rules is necessary to assure that the actual provision of the service is done in a safe and effective manner. Noncompliance with these rules would result in the inability to adequately meet the needs of the residents and the department believes that the \$300 fine is appropriate.

The \$350 penalty assessment has been assigned to those rules which relate to the direct provision of services to the residents. Since the impact of noncompliance with those provisions would be more immediate, the department believes that the additional increase of \$50 is appropriate. Examples of the rules contained in this category would include the provision relating to the actual administration of oxygen, the provision that medications and treatments be administered in accordance with physician's instructions, provision of dental care, assuring that the dietary needs of residents are met and that the food is of acceptable quality and prepared, served and handled in a manner that will avoid its contamination, and assuring that nursing staff is trained prior to providing care to residents. Also included are rules which relate to the qualifications of the nursing staff and the availability of nursing equipment necessary to assure that nursing care is provided in a safe manner. The direct relationship of these rules to the provision of the service in a safe manner justifies the \$350 fine.

The proposed schedule of fines has been arranged in the numerical sequence of the rules with the fines for specific portions of a rule designated under that rule number. It should be noted that in certain situations different fine amounts have been assigned to the various elements contained within one section or subsection. For example, a \$100 assessment and a \$50 assessment has been assigned to the provisions of 7 MCAR § 1.045 A.2. The impact of a violation of the various elements contained in that rule would have a different degree of impact on the health, safety, treatment, comfort or well-being of the residents. Since the potential for harm is different, it became necessary to isolate the elements of this particular rule section to assure that the fine assigned to each element reflects the potential for harm. Similar situations are found in the proposed schedule whenever the potential for harm presented to a resident by a violation of the elements within a specified rule is different. However, in situations where a rule has a number of specific elements which could constitute a violation and when the impact of noncompliance with each one of these elements is the same, only one fine amount has been assigned and each element would be subject to the issuance of a penalty assessment in that amount. For example, 7 MCAR § 1.045 H.6., which relates to the development of the written disaster plan, has been assigned a \$100 penalty assessment. However, there are a number of separate elements within that rule that could result in the issuance of a correction order: e.g. the plan is not specific to the facility; the plan was not developed in cooperation with the Fire Marshal, the plan did not contain the required information, the plan was not properly posted, etc. A violation of any of these elements would result in a \$100 penalty assessment.

### Rules as Proposed (All new material)

#### 7 MCAR § 1.059 Schedule of fines for uncorrected deficiencies.

A. Scope. The provisions of this rule establish the schedule of fines to be assessed against nursing homes for the failure to comply with a correction order. Penalty assessments are issued under the provisions of Minnesota Statutes, section 144A.10, subdivision 6 and will accrue on a daily basis. This rule supersedes those provisions contained in 7 MCAR § 1.057 which

establish a schedule of fines applicable to nursing homes. The provisions of 7 MCAR § 1.057 which establish fines applicable to boarding care homes remain unchanged.

B. Schedule of fines. Pursuant to the provisions of Minnesota Statutes, section 144A.10, subdivision 6, the commissioner of health shall impose penalty assessments in the amounts specified in 1.-23.

1. 7 MCAR § 1.042:

- a. 7 MCAR § 1.042 B.1., \$50;
- b. 7 MCAR § 1.042 B.2., \$50;
- c. 7 MCAR § 1.042 B.3., \$50; and
- d. 7 MCAR § 1.042 C.1.-C.6., \$100.

2. 7 MCAR § 1.044:

a. 7 MCAR § 1.044 A.:

(1) A \$500 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.044 A. which states: “. . . a registered nurse or a licensed practical nurse shall be employed so that on-site nursing coverage is provided eight (8) hours per day, seven (7) days per week during the day shift.”

(2) A \$500 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.044 A. which states: “Provision shall also be made for a registered nurse to be ON CALL during all hours when a registered nurse is not on duty.”

- b. 7 MCAR § 1.044 L., \$350;
- c. 7 MCAR § 1.044 M., \$100;
- d. 7 MCAR § 1.044 N., \$100;
- e. 7 MCAR § 1.044 O., \$50;
- f. 7 MCAR § 1.044 P., \$50; and
- g. 7 MCAR § 1.044 U., \$250.

3. MHD 45:

a. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 45(a) which states: “The licensee shall develop written by-laws and/or policies which shall be available to all members of the governing body and shall assure full legal responsibility for matters under its control, for the quality of care rendered and for compliance with applicable laws and regulations of legally authorized agencies.”

b. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 45(a) (2) which states that the responsibilities of the licensee include the: “Appointment of a licensed nursing home administrator or a person in charge who shall be responsible for the operation of the home in accordance with law and established policies.”

c. A \$50 penalty assessment shall be issued for a violation of that portion of MHD 45 (a) (2) which states: “The authority to serve as administrator or person in charge shall be delegated in writing.”

d. MHD 45(a) (3)-(7), \$100.

e. A \$50 penalty assessment shall be issued for a violation of that portion of MHD 45(b) which states: “Copies of these licensing regulations shall be made readily available for the use of all personnel of the facility.”

f. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 45(b) which states: “All personnel shall be instructed in the requirements of the laws and the regulations pertaining to their respective duties and such instruction shall be documented. All personnel shall be fully informed of the policies of the home and procedure manuals to guide them in the performance of their duties shall be readily available.”

g. MHD 45(c), \$100.

h. Except as noted in i., a \$100 penalty assessment shall be issued for a violation of MHD 45(d).

i. A \$50 penalty assessment shall be issued for a violation of that portion of MHD 45(d) which states: “The name of the person in charge at the time shall be posted at the main entrance.”

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j. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 45(e) which states: "The administrator, in cooperation with the director of nursing service in a nursing home or the person in charge in a boarding care home shall be responsible for exercising discretion in the type of patients or residents admitted to the home in accordance with the admission policies of the home."

k. A \$250 penalty assessment shall be issued for a violation of that portion of MHD 45(e) which states: "Patients or residents shall not be accepted or retained for whom care cannot be provided in keeping with their known physical, mental or behavioral condition."

- l. MHD 45(f), \$50;
- m. MHD 45(g), \$100;
- n. MHD 45(h) (1), \$50;
- o. MHD 45(h) (2), \$100;
- p. MHD 45(h) (2) (aa)-(cc), \$100;
- q. MHD 45(h) (2) (dd), \$50;
- r. MHD 45(h) (2) (ee), \$100;
- s. MHD 45(h) (2) (ff), \$50;
- t. MHD 45(h) (3), \$100;
- u. MHD 45(h) (4) (aa)-(dd), \$50;
- v. MHD 45(h) (5), \$100;
- w. MHD 45(h) (5) (bb)-(dd), \$50;
- x. MHD 45(h) (6), \$100; and
- y. MHD 45(h) (7), \$100.

4. 7 MCAR § 1.046:

- a. Except as noted in b., a \$350 penalty assessment shall be issued for a violation of 7 MCAR § 1.046 A.;
- b. A \$100 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.046 A. which states: "Visiting hours shall be established as a written policy of the home and shall be posted in plain view of visitors.";
- c. 7 MCAR § 1.046 B., \$100;
- d. 7 MCAR § 1.046 C., \$100;
- e. 7 MCAR § 1.046 D., \$500;
- f. 7 MCAR § 1.046 E., \$250;
- g. 7 MCAR § 1.046 F., \$250;
- h. 7 MCAR § 1.046 G., \$100;
- i. 7 MCAR § 1.046 H., \$100;
- j. 7 MCAR § 1.046 I., \$100;
- k. 7 MCAR § 1.046 J., \$100;
- l. 7 MCAR § 1.046 K., \$100;
- m. 7 MCAR § 1.046 L.1., \$350;
- n. 7 MCAR § 1.046 L.1.a.-d., \$300;
- o. 7 MCAR § 1.046 L.2.a., \$500;
- p. 7 MCAR § 1.046 L.2.b., \$350;
- q. 7 MCAR § 1.046 L.2.c.(1)-(4), \$300;
- r. 7 MCAR § 1.046 L.2.d., \$100;
- s. 7 MCAR § 1.046 L.2.e., \$350;
- t. 7 MCAR § 1.046 L.2.f., \$300; and
- u. 7 MCAR § 1.046 L.3., \$350.

5. 7 MCAR § 1.047:

- a. 7 MCAR § 1.047 A., \$100;
- b. 7 MCAR § 1.047 A.1., \$100;
- c. 7 MCAR § 1.047 A.1.b., \$100;
- d. 7 MCAR § 1.047 A.3., \$50;
- e. 7 MCAR § 1.047(b), \$100;
- f. 7 MCAR § 1.047(c), \$100;
- g. 7 MCAR § 1.047(d), \$100; and
- h. 7 MCAR § 1.047(e), \$50.

6. 7 MCAR § 1.048:

- a. Except as noted in b., a \$300 penalty assessment shall be issued for a violation of 7 MCAR § 1.048 A.
  - b. A \$50 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.048 A. which states: "All entries shall be made with a pen and signed by the person making the entry."
  - c. Except as noted in d., a \$300 penalty assessment shall be issued for a violation of 7 MCAR § 1.048 A.1.
  - d. A \$50 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.048 A.1. which states: "At the time of discharge or death, this record shall be completed with the date, time, reason for discharge, discharge diagnosis and conditions; or date, time and cause of death. In either case the signature and address of the responsible person to whom released shall be obtained."
  - e. 7 MCAR § 1.048 A.2., \$300.
  - f. Except as noted in g., a \$100 penalty assessment shall be issued for a violation of 7 MCAR § 1.048 A.3.
  - g. A \$50 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.048 A.3. which states: "The records of discharged patients or residents shall be promptly completed and filed in the home."
  - h. 7 MCAR § 1.048 A.4., \$100.
  - i. 7 MCAR § 1.048 A.5.-7., \$50.
  - j. 7 MCAR § 1.048 A.8.a., \$50.
  - k. 7 MCAR § 1.048 A.8.b.(1), \$250.
  - l. 7 MCAR § 1.048 A.8.b.(2), \$50.
  - m. 7 MCAR § 1.048 A.8.c.(1)-(7), \$100.
  - n. 7 MCAR § 1.048 A.8.d.-e., \$100.
  - o. 7 MCAR § 1.048 A.9., \$50.
  - p. 7 MCAR § 1.048 A.10., \$100.
  - q. 7 MCAR § 1.048 A.11.a.-h., \$50.
  - r. Except as noted in s. and t., a \$300 penalty assessment shall be issued for a violation of 7 MCAR § 1.048 B.
  - s. A \$100 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.048(b) which states: "A detailed incident report of any accident, injury or error in drug administration and the action taken shall be completed immediately."
  - t. A \$100 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.048(b) which states: "All nurses' notes shall be written and signed by the person giving the medication or making the observation."
7. MHD 49:
- a. MHD 49(a), \$300.

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b. A \$300 penalty assessment shall be issued for a violation of that portion of MHD 49(b) which states: "Each nursing home or boarding care home shall have an agreement with one or more licensed physicians to provide emergency services and to act in an advisory capacity."

c. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 49(b) which states: "A schedule, which lists the names, telephone numbers and call days of the emergency physician(s) shall be posted in each nurses' or attendants' station."

d. MHD 49(c)(1), \$350.

e. A \$350 penalty assessment shall be issued for a violation of that portion of MHD 49(c)(2) which states: "Each nursing home patient shall be examined by a physician at least every 6 months and each boarding care home resident at least annually or more often if indicated by the clinical condition."

f. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 49(c)(2) which states: "A progress note shall be recorded in the patient's or resident's record at the time of each examination."

g. MHD 49(c)(3), \$350.

h. MHD 49(d), \$350.

i. A \$300 penalty assessment shall be issued for a violation of that portion of MHD 49(e) which states: "Nursing homes and boarding care homes shall have a written agreement with a licensed dentist to provide emergency dental care when necessary."

j. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 49(e) which states: "The name and address of the emergency dentist shall be posted at each nurses' or attendants' station."

k. MHD 49(f), \$100.

l. MHD 49(g), \$350.

m. MHD 49(h), \$100.

n. MHD 49(i), \$300.

o. MHD 49(j), \$300.

### 8. MHD 50:

a. A \$300 penalty assessment shall be assessed for a violation of that portion of MHD 50(a) which states: "Adequate staff shall be provided to meet the nursing and personal care needs and the maintenance necessary for the well-being of the patients and residents at all times."

b. A \$500 penalty assessment shall be issued for a violation of that portion of MHD 50(a) which states: "There shall be at least one responsible person awake, dressed and on duty at all times. These persons shall be at least twenty-one (21) years of age and capable of performing the required duties of evacuating the patients and residents."

c. A \$50 penalty assessment shall be issued for a violation of that portion of MHD 50(a) which states: "Each employee and volunteer shall wear a badge which includes name and position."

d. Except as noted in d., a \$300 penalty assessment shall be issued for a violation of MHD 50(b).

e. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 50(b) which states: "The activities program shall be regularly scheduled at least five (5) days each week with the program posted one week in advance. A sufficient number of personnel shall be assigned to assist with the activities program on a regular basis. Appropriate space, equipment, materials and storage areas shall be provided. This shall include recreational space and activities out-of-doors."

f. MHD 50(c), \$250;

g. MHD 50(d), \$300;

h. MHD 50(e)(1), \$300;

i. MHD 50(e)(2), \$300;

j. MHD 50(e)(3), \$300.

k. MHD 50(e)(4), \$300.

l. MHD 50(e)(5), \$100.

m. MHD 50(e)(6), \$300.

n. MHD 50(f)(1), \$300.



o. MHD 50(f)(2), \$300.

p. A \$300 penalty assessment shall be issued for that portion of MHD 50 (f)(3) which states that the responsibilities of the director of nursing include: "Planning and conducting written orientation programs for new nursing personnel, and continuing in-service education for all nursing home personnel, if there is no one designated who is responsible for all in-service education."

q. A \$500 penalty assessment shall be issued for that portion of MHD 50(f)(3) which states: "No nursing personnel shall perform duties for which they have not had proper and sufficient training. Duties assigned to nursing personnel shall be consistent with their training, experience and licensure."

r. MHD 50(f)(4)-(7), \$100;

s. MHD 50(f)(8), \$300.

t. MHD 50(f)(9)-(13), \$100.

u. MHD 50(g), \$350.

v. MHD 50(h), \$300.

w. MHD 50(i), \$350.

x. A \$100 penalty assessment shall be issued for a violation of that portion of MHD 50(j) which states: "The nursing home shall provide opportunities for personnel to attend courses in rehabilitation nursing and other educational programs."

y. A \$350 penalty assessment shall be issued for a violation of that portion of MHD 50(j) which states: "Nursing home personnel shall be trained in nursing skills including demonstrations and practice with supervision as needed and prior to assignment to patient care responsibilities."

9. MHD 51:

a. MHD 51(a), \$350.

b. Except as noted in c., a \$100 penalty assessment shall be issued for a violation of MHD 51(b).

c. A \$200 penalty assessment shall be issued for a violation of that portion of MHD 51(b) which states: "All attached equipment shall be solidly anchored to avoid accidents."

d. Except as noted in e., a \$350 penalty assessment shall be issued for a violation of MHD 51(c).

e. A \$300 penalty assessment shall be issued for a violation of that portion of MHD 51(c) which states: "A full record of the use of restraints or seclusion shall be maintained in the patient's or resident's medical record."

f. MHD 51(d), \$350.

g. MHD 51(e)(1)-(3), \$350.

h. MHD 51(e)(4), \$100.

10. 7 MCAR § 1.052:

a. 7 MCAR § 1.052 A.1. and (2)-(6), \$150;

b. 7 MCAR § 1.052 A.(7), \$350;

c. 7 MCAR § 1.052 A.(8)-(9), \$150;

d. A \$200 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.052 A.(10) which states: "All furnishings and equipment shall be maintained in a usable, safe and sanitary condition.";

e. A \$50 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.052 A.(10) which states: "All rooms and beds shall be numbered. All beds shall be identified with the name of the patient or resident.";

f. 7 MCAR § 1.052 (b), \$350;

g. 7 MCAR § 1.052 (c), \$200;

h. 7 MCAR § 1.052 (d), \$150;

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i. 7 MCAR § 1.052 (e), \$150;

j. 7 MCAR § 1.052 (f), \$150;

k. 7 MCAR § 1.052 (g), \$150;

l. A \$200 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.052 (h) which states: "Cabinets and other suitable space shall be provided and identified for the safe storage of equipment and supplies in a sanitary, convenient and orderly manner. Supplies shall be identified.";

m. A \$300 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.052 (h) which states: "Sterile supplies shall be marked with the latest date of sterilization and shall be stored apart from unsterile supplies.";

n. 7 MCAR § 1.052 (i), \$200;

o. 7 MCAR § 1.052 (j), \$200; and

p. 7 MCAR § 1.052 (k), \$200.

11. 7 MCAR § 1.053:

a. A \$500 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 A. which states: "A system shall be developed in each nursing home to assure that all medications are administered safely and properly."

b. A \$300 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 A. which states: "The supervising nurse or other nursing staff trained specifically by the supervising nurse or a physician in the administration<sup>1</sup> of medications and familiar with the expected action of drugs, shall be designated and held responsible for the administration of medications during each eight hour period."

c. A \$100 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 A. which states: "A list of carefully selected personnel, currently employed, who have been so trained, none under eighteen (18) years of age, shall be maintained. The written training program shall be available at each nursing station."

d. A \$500 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 A. which states: "Medications administered by hypodermic may be given only by a physician, registered nurse or licensed practical nurse."

e. A \$350 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 A. which states: "The actual act of swallowing oral medications shall be observed personally by the individual responsible for administering medications. When medications have been added to food, the amount of food consumed shall be recorded by the person designated to administer medications."

f. A \$500 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 A. which states: "All medications shall be administered exactly as ordered by the physician. Any medication errors or patient reactions<sup>2</sup> shall be reported to the physician at once and an explanation made in the patient's care record."

g. 7 MCAR § 1.053 A.(1), \$350.

h. 7 MCAR § 1.053 A.(2), \$300.

i. 7 MCAR § 1.053 A.(3), \$300.

j. 7 MCAR § 1.053 A.(4), \$300.

k. 7 MCAR § 1.053 A.(5), \$300.

l. 7 MCAR § 1.053 B., \$300.

m. 7 MCAR § 1.053 C., \$300.

n. A \$350 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.053 D. which states: "All medications administered to each patient shall be recorded on the medication and treatment record or in the nurses' notes on the patient's chart. This information shall include the name and quantity of the drug given and the time administered and shall be initiated by the person giving the drug. Special notations shall be made whenever medications are started or discontinued. Medicine cards or a medicine list shall be maintained to show each medication which is currently being given."

o. A \$300 penalty assessment shall be issued for a violation of those portions of 7 MCAR § 1.053 D. not identified in n.

p. 7 MCAR § 1.053 E., \$350.

q. 7 MCAR § 1.053 F., \$300.

r. 7 MCAR § 1.053 G., \$100.

s. 7 MCAR § 1.053 H., \$100.

t. 7 MCAR § 1.053 N., \$300.

12. MHD 54:

a. MHD 54(a)(1), \$200;

b. MHD 54(a)(2), \$200;

c. MHD 54(a)(3), \$200;

d. MHD 54(a)(4), \$300;

e. MHD 54(a)(5), \$300;

f. MHD 54(a)(6), \$100;

g. MHD 54(a)(7), \$50; and

h. MHD 54(a)(8), \$300.

13. 7 MCAR § 1.055:

a. Except as noted in b., a \$350 penalty assessment shall be issued for a violation of 7 MCAR § 1.055(a).

b. A \$100 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.055(a) which states: "There shall be current diet manuals readily available in the kitchen."

c. 7 MCAR § 1.055(b), \$300.

d. Except as noted in e.-g., a \$350 penalty assessment shall be issued for a violation of 7 MCAR § 1.055(c).

e. A \$300 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.055(c) which states: "The dietary staff shall be adequate in number to provide personnel on duty 12 or more hours per day. They shall be trained in the performance of their assigned duties."

f. A \$50 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.055(c) which states: "Work assignments and duty schedules shall be posted in the dietary department."

g. A \$50 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.055(c) which states: "The kitchen shall not be used for eating meals or for coffee breaks."

h. 7 MCAR § 1.055(d), \$350.

i. 7 MCAR § 1.055(e), \$350.

j. A \$350 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.055(f) which states: "At least three meals shall be served at regular times during each twenty-four hour period with a maximum of fourteen (14) hours between a substantial evening meal and breakfast."

k. A \$100 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.055(f) which states: "Meals shall be served in the dining room and bedroom trays kept to a minimum. Patients or residents shall be encouraged to eat together."

l. 7 MCAR § 1.055(g), \$350.

m. 7 MCAR § 1.055(h), \$300.

n. 7 MCAR § 1.055(i), \$300.

o. 7 MCAR § 1.055(j)-(s), \$350.

p. 7 MCAR § 1.055 (t)-(w), \$300.

14. MHD 56:

a. MHD 56(a), \$200;

b. MHD 56(b), \$100;

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## PROPOSED RULES

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- c. MHD 56(c), \$200;
- d. MHD 56(d), \$200;
- e. Except as noted in f., a \$150 penalty assessment shall be issued for a violation of MHD 56(e).

f. A \$200 penalty assessment shall be issued for a violation of that portion of MHD 56(e) which states:  
“Disinfectants, pesticides and other toxic substances shall be clearly identified and stored in a locked enclosure or cabinet.”

- g. MHD 56(f), \$150;
- h. MHD 56(g), \$200;
- i. MHD 56(h), \$50;
- j. MHD 56(i), \$200;
- k. MHD 56(j), \$350; and
- l. MHD 56(k), \$200.

15. MHD 62:

- a. MHD 62(b), \$100;
- b. MHD 62(e)(1), \$100;
- c. MHD 62(g), \$200;
- d. MHD 62(h)-(m), \$100)

16. 7 MCAR § 1.064:

- a. 7 MCAR § 1.064(a)(1)(aa), \$150;
- b. 7 MCAR § 1.064(a)(2)(aa), \$200;
- c. 7 MCAR § 1.064(a)(2)(bb), \$200;
- d. 7 MCAR § 1.064(a)(3)(aa1), \$200;
- e. 7 MCAR § 1.064(a)(3)(bb1), \$150;
- f. 7 MCAR § 1.064(a)(3)(cc), \$150;
- g. 7 MCAR § 1.064(a)(3)(dd1), \$200;
- h. 7 MCAR § 1.064(a)(3)(dd2), \$150;
- i. 7 MCAR § 1.064(a)(3)(ee1), \$150;
- j. 7 MCAR § 1.064(a)(3)(ff1)(a), \$100;
- k. 7 MCAR § 1.064(a)(3)(ff1)(b), \$500;
- l. 7 MCAR § 1.064(a)(3)(ff2), \$200;
- m. 7 MCAR § 1.064(a)(3)(gg1), \$150;
- n. 7 MCAR § 1.064(a)(4)(aa), \$150;
- o. 7 MCAR § 1.064(a)(4)(bb), \$200;
- p. 7 MCAR § 1.064(a)(5)(aa), \$300;
- q. 7 MCAR § 1.064(a)(6)(aa)-(bb), \$200;
- r. 7 MCAR § 1.064(a)(7)(aa), \$200;
- s. 7 MCAR § 1.064(a)(9)(aa), \$150;
- t. 7 MCAR § 1.064(a)(10)(aa)-(bb), \$200;
- u. 7 MCAR § 1.064(a)(11)(aa), \$150;
- v. 7 MCAR § 1.064(a)(12)(aa)-(cc), \$150;
- w. 7 MCAR § 1.064(a)(13)(aa), \$150;
- x. 7 MCAR § 1.064(a)(14)(aa1)-(aa4), \$150;
- y. 7 MCAR § 1.064(a)(14)(aa5)-(aa6), \$200;

z. 7 MCAR § 1.064(a)(14)(aa7)-(aa10), \$150;

aa. 7 MCAR § 1.064(a)(15)(aa), \$150;

bb. 7 MCAR § 1.064(a)(15)(aa1)-(aa4), \$150;

cc. 7 MCAR § 1.064(a)(15)(aa5)-(aa7), \$200;

dd. 7 MCAR § 1.064(a)(15)(aa8)-(aa11), \$150;

ee. A \$150 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.064(a)(16)(aa) which states: "In a room used by more than one patient, the bathtub or shower area shall be provided with a draw curtain for privacy.";

ff. A \$200 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.064(a)(16)(aa) which states: "Bathtubs and showers shall be provided with a non-slip bottom or floor surface, and the areas shall be provided with grab bars.";

gg. 7 MCAR § 1.064(a)(16)(bb), \$150;

hh. Except as noted in kk., a \$150 penalty assessment shall be issued for a violation of 7 MCAR § 1.064(a)(17)(aa).

ii. A \$200 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.064(a)(17)(aa) which states: "Bathtubs and showers shall be provided with a non-slip bottom or floor surface, and at least one grab bar, securely anchored, shall be provided at each fixture."

jj. 7 MCAR § 1.064(a)(17)(bb), \$150;

kk. Except as noted in ll., a \$150 penalty assessment shall be issued for a violation of 7 MCAR § 1.064(a)(17)(bb1).

ll. A \$200 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.064(a)(17)(bb1) which states: "A vertical, non-slip grab bar, 24 inches long, shall be provided at the shower and at the shower entrance location. The low end of the grab bar shall be 3'-0" above the floor. Horizontal grab bars inside wet areas shall be mounted at a height of 4'-6" above the floor."

mm. Except as noted in nn., a \$150 penalty assessment shall be issued for a violation of 7 MCAR § 1.064(a)(17)(bb2).

nn. A \$200 penalty assessment shall be issued for a violation of that portion of 7 MCAR § 1.064(a)(17)(bb2) which states: "A vertical, non-slip grab bar, 24 inches long, shall be provided on each side of the tub at the head end. The low end of the grab bar shall be 3'-6" above the floor or 4 inches above the rim of the tub."

oo. 7 MCAR § 1.064(a)(18)(aa)-(bb), \$150;

pp. 7 MCAR § 1.064(a)(19)(aa), \$150;

qq. 7 MCAR § 1.064(a)(20)(aa), \$150;

rr. 7 MCAR § 1.064(a)(21)(aa), \$150;

ss. 7 MCAR § 1.064(a)(22)(aa), \$50; and

tt. 7 MCAR § 1.064(a)(23)(aa), \$50.

**17. MHD 65:**

a. MHD 65(a), \$150;

b. MHD 65(b), \$200;

c. MHD 65(c)(1)-(5), \$200;

d. MHD 65(c)(6), \$100;

e. MHD 65(d), \$150;

f. MHD 65(e), \$150;

g. MHD 65(f), \$150;

h. MHD 65(g), \$150;

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## PROPOSED RULES

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- i. MHD 65(h), \$150;
  - j. MHD 65(i), \$150;
  - k. MHD 65(k)(1)-(2), \$150; and
  - l. MHD 65(l), \$150.
18. MHD 66:
- a. MHD 66(a)(1), \$200;
  - b. MHD 66(b)(1)(aa)-(cc), \$150;
  - c. MHD 66(c)(1), \$200;
  - d. MHD 66(d)(1), \$150;
  - e. MHD 66(e)(1), \$200;
  - f. MHD 66(f)(1), \$150;
  - g. MHD 66(g)(1), \$200;
  - h. MHD 66(h)(1), \$200;
  - i. MHD 66(i)(1)-(2), \$200;
  - j. MHD 66(j)(1), \$200;
  - k. MHD 66(k)(1), \$200;
  - l. MHD 66(l)(1), \$150;
  - m. MHD 66(m)(1), \$200;
  - n. MHD 66(n)(1), \$200;
  - o. MHD 66(n)(1)(aa)-(bb), \$200;
  - p. MHD 66(o)(1)-(2), \$200;
  - q. MHD 66(p)(1)-(2), \$200;
  - r. MHD 66(q)(1)(aa)-(bb), \$200;
  - s. MHD 66(r)(1), \$200;
  - t. MHD 66(s), \$200; and
  - u. MHD 66(t), \$200.
19. MHD 67:
- a. MHD 67(a)(1)(aa)-(bb), \$200;
  - b. MHD 67(a)(1)(cc)-(ee), \$200;
  - c. MHD 67(a)(1)(ff)-(ii), \$200;
  - d. MHD 67(a)(1)(jj)-(mm), \$200;
  - e. MHD 67(a)(1)(n), \$200;
  - f. MHD 67(a)(1)(o), \$200;
  - g. MHD 67(b)(1), \$200;
  - h. MHD 67(c)(1)(aa)-(ff), \$200;
  - i. MHD 67(c)(1)(gg)-(hh), \$200;
  - j. MHD 67(c)(1)(ii)-(nn), \$200;
  - k. MHD 67(d), \$200;
  - l. MHD 67(e), \$200;
  - m. MHD 67(f)(1)(aa), \$200
  - n. MHD 67(f)(2)(aa), \$50;
  - o. MHD 67(f)(2)(bb), \$200;

- p. MHD 67(f)(3)-(5), \$200;
- q. MHD 67(f)(6)(aa), \$200;
- r. MHD 67(f)(7)-(9), \$200;
- s. MHD 67(f)(10)-(12), \$350; and
- t. MHD 67(g), \$200.

20. Minnesota Statutes, chapter 144A:

- a. Minnesota Statutes, section 144A.04, subdivision 4, \$100.
- b. Minnesota Statutes, section 144A.04, subdivision 6, \$100.
- c. Minnesota Statutes, section 144A.08, subdivision 2, \$100.

d. A \$100 penalty assessment shall be issued for a violation of these portions of Minnesota Statutes, section 144A.10, subdivision 3 which state: “. . . [A] copy of each correction order and notice of noncompliance, and copies of any documentation supplied to the commissioner of health or the commissioner of public welfare under sections 144A.03 or 144A.05 shall be kept on file at the nursing home and shall be made available for viewing by any person upon request. Except as otherwise provided by this subdivision, a copy of each correction order and notice of noncompliance received by the nursing home after its most recent inspection or reinspection shall be posted in a conspicuous and readily accessible place in the nursing home . . . All correction orders and notices of noncompliance issued to a nursing home owned and operated by the state or political subdivision of the state shall be circulated and posted at the first public meeting of the governing body after the order or notice is issued. Confidential information protected by section 13.05 or section 13.46, shall not be made available or posted as provided in this subdivision unless it may be made available or posted in a manner authorized by chapter 13.”

- e. Minnesota Statutes, section 144A.13, subdivision 1, \$100.

f. Except as noted in g., a \$100 penalty assessment shall be issued for a violation of Minnesota Statutes, section 144A.13, subdivision 2.

g. A \$250 penalty assessment shall be issued for a violation of that portion of Minnesota Statutes, section 144A.13, subdivision 2 which states: “. . . [N]o controlling person or employee of a nursing home shall retaliate in any way against a complaining nursing home resident and no nursing home resident may be denied any right available to him under chapter 566.”

- h. Minnesota Statutes, section 144A.16, \$100.

21. Minnesota Statutes, section 144.651:

- a. Minnesota Statutes, section 144.651, subdivision 4, \$100;
- b. Minnesota Statutes, section 144.651, subdivision 5, \$250;
- c. Minnesota Statutes, section 144.651, subdivision 6, \$250;
- d. Minnesota Statutes, section 144.651, subdivision 7, \$100;
- e. Minnesota Statutes, section 144.651, subdivision 8, \$100;
- f. Minnesota Statutes, section 144.651, subdivision 9, \$250;
- g. Minnesota Statutes, section 144.651, subdivision 10, \$250;
- h. Minnesota Statutes, section 144.651, subdivision 11, \$100;
- i. Minnesota Statutes, section 144.651, subdivision 12, \$250;
- j. Minnesota Statutes, section 144.651, subdivision 13, \$500;
- k. Minnesota Statutes, section 144.651, subdivision 14, \$500;
- l. Minnesota Statutes, section 144.651, subdivision 15, \$250;

m. Except as noted in n., a \$100 penalty assessment shall be issued for a violation of Minnesota Statutes, section 144.651, subdivision 16.

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## PROPOSED RULES

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n. A \$250 penalty assessment shall be issued for a violation of that portion of Minnesota Statutes, section 144.651, subdivision 16, which states: "[P]atients and residents shall be assured confidential treatment of their personal and medical records, and may approve or refuse their release to any individual outside the facility. . .";

o. Minnesota Statutes, section 144.651, subdivision 17, \$100;

p. Minnesota Statutes, section 144.651, subdivision 18, \$100;

q. Minnesota Statutes, section 144.651, subdivision 19, \$250;

r. Minnesota Statutes, section 144.651, subdivision 20, \$100;

s. A \$250 penalty assessment shall be issued for a violation of the portions of Minnesota Statutes, section 144.651, subdivision 21 which state: ". . . [P]atients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. . . Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record."

t. A \$100 penalty assessment shall be issued for a violation of the portions of Minnesota Statutes, section 144.651, subdivision 21 which state: "[P]atients and residents shall have access, at their expense, to writing instruments, stationery, and postage. . . There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls . . ."

u. Minnesota Statutes, section 144.651, subdivision 22, \$100;

v. Minnesota Statutes, section 144.651, subdivision 23, \$250;

w. Minnesota Statutes, section 144.651, subdivision 24, \$100;

x. Minnesota Statutes, section 144.651, subdivision 25, \$250;

y. Minnesota Statutes, section 144.651, subdivision 26, \$250;

z. Minnesota Statutes, section 144.651, subdivision 27, \$100;

aa. Minnesota Statutes, section 144.651, subdivision 28, \$250; and

bb. Minnesota Statutes, section 144.651, subdivision 29, \$250.

22. Minnesota Statutes, section 144.652, subdivision 1, \$100.

23. Minnesota Statutes, section 626.557:

a. Minnesota Statutes, section 626.557, subdivision 3, \$250;

b. Minnesota Statutes, section 626.557, subdivision 3a, \$100;

c. Minnesota Statutes, section 626.557, subdivision 4, \$100;

d. Minnesota Statutes, section 626.557, subdivision 9, \$250;

e. Minnesota Statutes, section 626.557, subdivision 14, \$100;

f. Minnesota Statutes, section 626.557, subdivision 15, \$100; and

g. Minnesota Statutes, section 626.557, subdivision 17, \$250.



# ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 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. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

## Department of Economic Security

### Adopted Rules Governing Minnesota Emergency Employment Development Act

The rules governing the Minnesota Emergency Employment Development Act authorized by Laws of 1983, chapter 312, section 3, subdivision 6, are adopted. These rules were exempted from the provisions of the Minnesota Administrative Procedure Act, chapter 14 of the Minnesota Statutes.

The rules were adopted following a public hearing on the proposed rules, notice of which was published in the *State Register* on July 11, 1983. (8 S.R. 66).

#### Rules as Adopted

A. Purpose. These rules established by the Commissioner of Economic Security pursuant to Minnesota Statute § 268.64, subdivision 6 are to clarify and reflect interpretation of the Minnesota Emergency Employment Development Act (MEED) authorized by Minnesota Statute §§ 268.60 to 268.77.

B. Definition of Terms. The following terms used in these rules shall have the meanings given them.

1. "Unemployed" as used in Minnesota Statute § 268.62, subdivision 6 means a person who is neither employed nor self-employed and is available for substantially full time employment, unless participating in a job training program.

2. "Income Source" as used in Minnesota Statute § 268.67, subdivision 1, (1) includes, but is not limited to, gross wages or salaries before deductions; net self-employment income (gross receipts minus operating expenses); rents; social security benefits; old age and survivors benefits; SSI; veteran's benefits; pensions; alimony; child support; AFDC payments; MEED wages or wage subsidies; periodic income from insurance annuities; interest or dividend income from investment or savings accounts; unemployment insurance benefits including Federal Supplemental Compensation (FSC); Extended Benefits (EB); payments from the Railroad Retirement Board; and workers' compensation payments.

3. "Supplies and Materials" as used in Minnesota Statute §§ 268.68 (f) and 268.69, subdivision 8 means usual consumable supplies and materials and does not include items ordinarily classified as equipment and capital items having a life expectancy of one year or more.

4. "Good Cause" as used in Minnesota Statute § 268.72, subdivision 3 in determining business paybacks means a reasonable, common sense decision by the employer that the employee fails or refuses to comply with usual and applicable work rules or to attain performance standards. A voluntary termination by the employee shall be treated the same as a good cause dismissal for the purposes of Minnesota Statute § 268.72, subdivision 3.

C. Eligibility and Priority.

1. Designated employment administrators shall use existing effective employment and training systems already in place to determine applicant eligibility in accordance with Minnesota Statute §§ 268.62 through 268.67 to avoid duplication of effort.

2. Job applicant eligibility determinations shall be based upon the criteria set forth in Minnesota Statute § 268.60, subdivision 6 and shall be the responsibility of the employment administrator. Preliminary determinations may be made on the basis of a mail application if appropriate.

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## **ADOPTED RULES**

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3. Minnesota Statute § 268.67, subdivision 1 identifies two priorities among eligible job applicants. Employment administrators shall consider these equally.

Placement within these priorities should reasonably reflect the proportion each group represents of the total eligible for participation in the program in the jurisdiction served by the employment administrator.

4. Priorities in addition to those described in the Act may be established only by written justification of the employment administrator and approval by the MEED Coordinator.

### **D. Use of Funds.**

1. With respect to Minnesota Statute § 268.68 clause (c).

a. Funds shall be planned and available to provide child care services for eligible applicants.

b. Child care services provided or subsidized shall be supplied by licensed day care facilities or those exempted by the Public Welfare Licensing Act.

c. Employment administrators shall utilize existing resources from other programs (e.g. welfare or WIN) before authorizing expenditure of MEED funds for child care.

d. Employment administrators shall make the availability of child care resources known to eligible applicants and provide information and referral services.

2. The employment goal of limiting no more than sixty percent (60%) of funds for jobs with eligible government and nonprofit agencies shall not be exceeded without written approval of the MEED Coordinator. Requests to waive this goal shall be initiated by the employment administrator and consist of a written justification outlining the efforts made to comply and the reasons the goal is considered unattainable. Deviations from this goal must be authorized by the MEED Coordinator.

3. Eligible business employers (private sector) shall notify the employment administrator with whom they contracted of the termination of employment of any eligible job applicant not later than 10 working days after the date of employment termination.

4. Repayment of funds received for employment of eligible job applicants as authorized by Minnesota Statute § 268.72, subdivision 3 shall be negotiated by the employment administrator within the following guidelines:

a. The "proportional reduction" in the amount that must be repaid for employment of less than one year following the six-month subsidized period shall be 5.9% of the amount received for each of the first 11 months and 5.1% for the 12th month. Employment for more than 10 working days in a month will count as a full month for computation purposes. The employer may elect to repay at an accelerated rate or in a lump sum.

b. The employment administrator shall require that repayment commence no later than 60 calendar days after either the termination or employment or the determination by the employment administrator or designee that good cause does not exist.

c. The repayment schedule shall not ordinarily exceed one year. Small repayments should be for a shorter period. The repayment schedule may be extended in extenuating circumstances with the approval of the MEED Coordinator.

### **E. Employment Conditions.**

1. No eligible job applicant shall be disqualified from eligibility for participation in the program for refusing to join a labor union as a condition of employment.

2. No eligible job applicant shall be referred to, placed, or remain on a job affected by a labor dispute involving a work stoppage.

3. In no event shall provisions of a collective bargaining agreement or state or federal law be violated when referring or placing eligible job applicants.

4. The employment administrator shall obtain assurance from the eligible employer that concurrence with respect to job duties of persons employed under the Act has been obtained from the appropriate collective bargaining agents.

### **F. Program Administration.**

1. Employment administrators and eligible employers shall maintain records necessary for reporting activities, monitoring of activities and possible audit in accordance with state and federal laws but in no case less than three (3) years after the date of the last action affecting them under the terms of the Act.

2. These rules are binding on any contracts negotiated under the provisions of the Act Minnesota Statute §§ 268.60 to 268.77.

## Minnesota Pollution Control Agency

### Adopted Amendments to Agency Procedural Rules 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013

The rule amendments proposed and published at *State Register*, Volume 7, Number 42, pp. 1510-1513, April 18, 1983 (7 S.R. 1510) are adopted as proposed.

## Department of Public Safety Bureau of Criminal Apprehension

### Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

The rules proposed and published at *State Register*, Volume 7, Number 31, pages 1114-1116, January 31, 1983 (7 S.R. 1114) are adopted with the following modifications:

#### Rules as Adopted

#### 11 MCAR § 1.3060 Statutory authority.

Rules 11 MCAR § 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 690.67.

#### 11 MCAR § 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR § 1.3060-1.3066, the following terms have the meanings given them.

B. Bureau. ~~"Bureau" means the Minnesota Bureau of Criminal Apprehension.~~

C. ~~Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and~~ Approved machine gun or short-barrelled shotgun. ~~"Approved machine guns and gun or short-barrelled shotguns not likely to be used as weapons."~~ collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns ~~shotgun"~~ means a machine gun or short-barrelled shotgun that, although designed as a weapon, has been determined by the superintendent as not likely to be used as weapons" ~~means firearms which have a weapon and that has been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).~~

C. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.

D. Report form. "Report form" means the official form created by the bureau of Criminal Apprehension on which contains the data required by specified in Minnesota Statutes, section 609.67, subdivision 4 is to be reported to the superintendent.

E. Superintendent. "Superintendent" means the superintendent of the Minnesota bureau of Criminal Apprehension or his delegate.

#### 11 MCAR § 1.3062 Procedures for reporting ownership or possession of approved machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. ~~The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent Within ten days after the applicant a person takes possession or ownership of the an approved machine gun or short-barrelled shotgun, the person shall send a report form to the superintendent.~~

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## ADOPTED RULES

C. Fee. The reporting person shall send a \$15 nonrefundable fee with each report form.

~~D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.~~

### 11 MCAR § 1.3063 Return of report form Filing not accepted.

The superintendent shall ~~return the~~ not accept a report form ~~to the reporting person for filing if:~~

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.) an approved machine gun or short-barrelled shotgun.

C. If the superintendent refuses to accept the report form on the grounds of A. or B., the report required by Minnesota Statutes, section 609.67, shall be deemed not to have been made. If the report can be corrected or completed properly, the reporting person shall submit a new report form within ten days after receipt of the superintendent's notice of nonacceptance. A new fee need not accompany a report form resubmitted under this provision.

### 11 MCAR § 1.3064 Right to contest decision.

If the superintendent ~~returns~~ does not accept the report form to the reporting person, the superintendent shall notify the reporting person in writing, specifying the reasons for nonacceptance. That person may contest the decision of the superintendent; in proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.70, and 9 MCAR § 2.201-2.222 rules of the Office of Administrative Hearings, 9 MCAR § 2.201 to 2.222.

~~If the superintendent refuses to accept the report form on the grounds of 9 MCAR § 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.~~

### ~~11 MCAR § 1.3065 Data privacy.~~

~~Report forms and associated documents shall be filed with the bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.~~

### 11 MCAR § 1.3066 Limited protection of reporting information.

All persons possessing or owning ~~a~~ an approved machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR § 1.3060-1.3066 shall have 90 days after the effective date of these rules to ~~report the possession or ownership. The information contained in the file a report form submitted to with the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.~~

## Board of Teaching

### **Adoption, Amendment, or Repeal of Rules Governing Procedures for Voluntary Surrender of Teaching Licenses, the Licensure of Teachers of Driver and Traffic Safety Education, the Licensure of Teachers of Science for Grades 5-9 and Grades 7-12, the Licensure of Teachers of English as a Second Language, and the Licensure of Teachers of Bilingual/Bicultural Education**

The rules proposed and published at *State Register*, Volume 7, Number 25, pages 947-954, December 20, 1982 (7 S.R. 947) are adopted with the following modifications:

#### **Rules as Adopted**

##### **5 MCAR § 3.0831 Driver and traffic safety education.**

A. Applicability. ~~All persons whose application is received on or after July 1, 1986 for licensure as a teacher of driver and traffic safety education must comply with 5 MCAR § 3.0831~~ This rule shall apply to any person providing instruction in a program in driver education, including both classroom and behind the wheel instruction, to a person under the age of 18, if the program is offered through a public school and has been approved by the Minnesota Board of Education pursuant to the requirements of Minnesota Statutes, section 171.04, clause (1). All persons whose application is received on or after July 1, 1986, for licensure as a teacher of driver and traffic safety education must comply with 5 MCAR § 3.0831.

F. Staff assignment.

1. Persons assigned as teachers of driver and traffic safety education shall:

- a. hold a license as a teacher of driver and traffic safety granted by the Board of Teaching; and
- b. hold a valid driver's license which has not been suspended or revoked within the 12-month period immediately preceding the beginning of each school year.

2. Persons assigned as teachers of motorcycle rider education shall:

- a. hold a license as a teacher of driver and traffic safety granted by the Board of Teaching;
- b. hold a valid driver's license and motorcycle endorsement which have not been suspended or revoked within the 12-month period immediately preceding the beginning of each school year; and
- c. complete a course in motorcycle rider education from a driver and traffic safety education program approved by the Board of Teaching.

**5 MCAR § 3.065 Science for grades 5 to 9 and grades 7 to 12.**

J. Continuing licensure. The continuing license may be renewed according to ~~general rules of~~ 5 MCAR § 3.005 the Board of Teaching rule pertaining to continuing education.

K. Licenses shall be issued in accordance with 5 MCAR § 3.065 as adopted on April 16, 1973, until July 1, 1985, at which time the provisions of the amended rule adopted by the Board of Teaching on May 19, 1983, shall be effective. Nothing in this section shall prohibit the Board of Teaching from issuing licenses prior to July 1, 1985, to those who qualify under the provisions of the amended rule. Pursuant to 5 MCAR § 3.141 the Board of Teaching shall reasonably accommodate the termination date of programs approved prior to the adoption of these amendments to permit persons enrolled in such approved programs to complete such programs.

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**SUPREME COURT****Decisions Filed Friday, August 5, 1983****Compiled by Wayne Tschimperle, Clerk**

C3-82-1146 Lyle H. McClish v. Pan-O-Gold Baking Company and Liberty Mutual Insurance Company, Relators, and Pan-O-Gold Baking Company and Vigilant Insurance Company, Employer and Insurer and Pan-O-Gold Baking Company and City Insurance Company (Home Insurance Company), Employer and Insurer. Workers' Compensation Court of Appeals.

The determination of the Workers' Compensation Court of Appeals that an employee of a bakery company had sustained work-related personal injuries by repeated trauma to his back from 1974 through 1979 was not manifestly contrary to the evidence.

The determination of the Workers' Compensation Court of Appeals that employee was totally disabled was not manifestly against the evidence.

Temporary total disability payments are not subject to reduction under Minn. Stat. § 176.101, subd. 4 (1982) when the employee receives federal social security benefits for the same injury.

Affirmed. Kelley, J. (Order attached withdraws opinion filed May 20, 1983 and denies petition for rehearing. Also, respondent is not allowed attorneys fees on this petition.)

# STATE CONTRACTS

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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.

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## Metropolitan Council

### Invitation to Submit Proposal for Regional Aviation Systems Plan Update for Twin Cities Metropolitan Area

The Metropolitan Council of the Twin Cities intends to update its Regional Aviation Systems Plan. This Plan will be accomplished according to the procedures outlined in FAA Advisory Circular 150/5900-1B, *Planning Grant Program for Airports*.

The Metropolitan Council is responsible for preparing regional plans and policies for the Seven County Minneapolis-St. Paul Metropolitan Area. The objective of the Metropolitan Aviation System Update project is to conduct a comprehensive evaluation of the Metropolitan Aviation System Plan last conducted in 1977. A reassessment of the regional aviation needs and ability to meet these needs is timely in light of the social and economic realities affecting the Twin Cities Metropolitan Area. A maximum of \$200,000 has been budgeted for this activity.

One of the key objectives of the Aviation System Plan update is to identify subregional and user benefits of the airport system. The clear identification of those economic sectors supporting or being supported by aviation can provide the Council, as well as the Metropolitan Airports Commission, with a firmer base upon which financial commitments, user charges and capital improvement projects can be evaluated. With increasing pressure on funding sources, the tracing of the economic benefits and disbenefits of each element of the airport system can identify potential new sources of funds or means by which funds might be transferred from one use to another to yield the most efficient and effective aviation system.

#### Planning Services

The consultant selected for this project should be capable of providing a range of planning services necessary to complete the proposed project. These services should include sufficient expertise to:

1. Establish quantitative relationships between the aviation system and economic activity
2. Identify role of aviation in the regional economy
3. Determine importance of air access to the Twin Cities economy relative to other areas.
4. Forecast aviation system demand to the year 2000.
5. Identify system needs as determined by the ability of the existing system to satisfy the aviation demand.
6. Establish a framework for evaluating changes to the aviation system and their influences on the economic well being of the Metropolitan Area.
7. Develop a hearing draft document by December 1984.

#### Submittal Contents

Consultant firms interested in being considered for this work effort are invited to submit six copies of the following information in the format indicated below:

1. Background and experience of the firm or firms including types of ownership, organization of the firm(s) length of time firm(s) has been operating under present organization, range of professional services offered, depth of major departments and total number of support personnel by function. If a team approach is to be used, the responsibilities of each team member should be clearly identified and similar information should be submitted for each team member.
2. A brief description of relevant previous work accomplishments including project description, cost, length of time involved, and specific responsibilities.
3. Resumes of key personnel expected to be assigned to the project, specifically identifying relevant and recent experience, and their areas of responsibility.
4. A brief (not to exceed 10 pages) narrative outlining the consultant's approach to the project in a format consistent with the points outlined under the Services section, particularly identifying an understanding of the unique aspects of the project.

5. The names and telephone numbers of three recent clients for whom similar work has been accomplished.
6. Effectiveness of an implemented Affirmative Action Program, and the extent to which minority and/or female-owned businesses will participate in the contract proposed. The Council has established a minority business enterprise participation goal of 10% for this contract.

The above information should be submitted to the following address prior to the close of work on September 2, 1983:

Mark J. Ryan  
Metropolitan Council  
Transportation Planning  
300 Metro Square Building  
7th & Robert St.  
St. Paul, Minn. 55101

From these transmittals, a group of 3 to 5 firms, or teams, will be invited to submit more detailed proposals and to appear for interviews prior to final selection.

## **Department of Transportation Technical Services Division**

### **Notice of Availability of a Contract for Preliminary Engineering—Design**

The Minnesota Department of Transportation (Mn/DOT) requires the services of a qualified consultant to perform detail design and prepare construction plans for a segment of Trunk Highway 252 between Trunk Highway 694 and Trunk Highway 610 in Brooklyn Park and Brooklyn Center.

Firms desiring considerations shall submit their expression of interest by twelve o'clock (12:00) midnight August 29, 1983 to:

B. E. McCarthy  
Consultant Services Engineer  
Transportation Building, Room 612B  
St. Paul, Minnesota 55155  
Telephone: 612-296-3051

This is not a request for proposal.

Applicants should be aware that on projects not involving Federal funds, Minnesota Laws 1983, Chapter 336, provide that any contract awarded by a public agency for engineering services, erection, construction, alteration, or repair of any public building or structure or for any public work or improvement for which competitive bidding is not required by law must be awarded to a Minnesota resident.

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## **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.

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## **Department of Commerce**

### **Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Governing the Operation of Commercial Banks**

Notice is hereby given that the Minnesota Department of Commerce is soliciting information and opinions from sources outside the agency and is preparing to promulgate amendments to existing rules relating to commercial banks. Minn. rules

## **OFFICIAL NOTICES**

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BD 1-56 are to be reviewed for any necessary or desirable modifications, with a particular view toward removing burdensome or unnecessary requirements.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

David A. Shern, Deputy Commissioner  
Division of Financial Institutions  
500 Metro Square Building  
Seventh and Robert Streets  
St. Paul, Minnesota 55101  
(612) 296-2135

All statements of information and comment shall be accepted until September 15, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch  
Commissioner of Commerce

## **Department of Economic Security**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Certain Aspects of Unemployment Insurance Tax Laws**

Notice is hereby given that the Department of Economic Security is seeking information or opinions from sources outside the agency in preparing to promulgate amended and new rules governing provisions of unemployment insurance tax laws (Minn. Stat. §§ 268.03-268.24). Of special interest are new rules regarding employer succession. The department is authorized to promulgate rules under Minn. Stat. § 268.021 enacted by Minnesota Laws, 1983, chapter 268.

The Minnesota Department of Economic Security requests information or comments concerning the subject matter of these rules. Interested or affected persons or groups may submit written statements to:

Ed Canavan  
Minnesota Department of Economic Security  
Tax Branch  
390 North Robert St.  
St. Paul, MN 55101

Statements of information or comments will be accepted until September 17, 1983. Any written material received by the Department of Economic Security shall become part of the record in the event that the rules are promulgated.

## **Department of Health Environmental Health Division**

### **Notice of Intent to Solicit Outside Opinion on Rules Relating to Uses of Fluoroscopy Equipment**

Notice is hereby given, pursuant to provisions of Minn. Stat. § 14.10 (1982) that the Commissioner of Health is considering the proposal of amendments to existing rules relating to collimation of fluoroscopy equipment which is registered with the Minnesota Department of Health.

Written comments should be addressed to:

Mrs. Alice T. Dolezal Hennigan, Chief  
Section of Radiation Control  
Minnesota Department of Health  
717 S.E. Delaware Street  
P.O. Box 9441  
Minneapolis, Minnesota 55440



## **Department of Health Health Systems Division**

### **Notice of Intent to Solicit Outside Opinion Regarding a Proposed Rule Governing the Definition of an Individual Permanent Medical Record**

Notice is hereby given that the Health Systems Division of the Department of Health is seeking information or opinions from sources outside the agency in preparing to promulgate a rule governing the definition of an individual permanent medical record. The promulgation of this rule is authorized by Minn. Stat. § 145.32, as amended by Laws 1983, chapter 237. The individual permanent medical record will constitute that portion of a hospital medical record which is to be retained on a permanent basis.

The Health Systems Division of the Department of Health requests information and comments concerning this rule. Interested or affected persons or groups may submit written statements of information and comment to:

H. Michael Tripple  
Survey and Compliance Section  
Minnesota Department of Health  
717 Southeast Delaware Street—P.O. Box 9441  
Minneapolis, Minnesota 55440  
(612) 623-5448

Statements of information and comment will be accepted until the close of the business day on October 1, 1983. Any written material received by that date by the Department of Health shall become part of the record in the event that the rules are promulgated.

## **Minnesota State Retirement System Regular Meeting, Board of Directors**

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, August 19, 1983 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

## **Minnesota Board of Teaching**

### **Notice of Intent to Solicit Outside Opinion Concerning a Proposed Amendment to Rule Governing Developmental/Adapted Physical Education (5 MCAR § 3.0909)**

Notice is hereby given that the Board of Teaching is seeking information or opinions from sources outside the board in preparing to propose an amendment to the rule governing the licensure of Teachers of Developmental/Adapted Physical Education.

The Legislative Commission to Review Administrative Rules has requested that the Board of Teaching amend 5 MCAR § 3.0909 to provide that while school districts are not required to comply with the rule until July 1, 1985, licenses which meet the provisions of the rule after a date to be set by the board will be considered valid for the purposes of 5 MCAR § 3.0909.

The board further solicits information or opinions concerning appropriate mechanisms for phasing in new licensure fields along with the possibility of separating the effective date of the issuance of licenses from the effective date for requiring school district compliance and the impact of these mechanisms on the seniority status of such licenses.

The board further solicits information or opinions concerning the granting of provisional licenses. Specifically, the board solicits information or opinions regarding the impact of provisional licenses on the adequate supply of teachers to deliver instructional services, the phasing in of qualified teachers in new and emerging fields of instruction and the utilization of provisional licenses for seniority purposes.

Any interested persons may submit data or views on this subject in writing or orally to:

## OFFICIAL NOTICES

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Kenneth L. Peatross, Executive Secretary  
Minnesota Board of Teaching  
608 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-2415

It is requested that any information or opinions be submitted by September 30, 1983. Any written material received shall become part of the hearing record in the event that an amendment to 5 MCAR § 3.0909 is promulgated.

August 9, 1983

Kenneth L. Peatross, Executive Secretary

STATE OF MINNESOTA  
State Register and Public Documents Division  
117 University Avenue  
St. Paul, Minnesota 55155

## ORDER FORM

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