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# STATE REGISTER

STATE OF MINNESOTA

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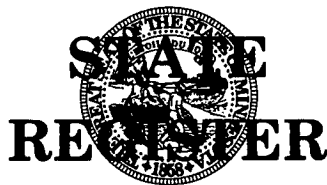
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**VOLUME 9, NUMBER 18**

**October 29, 1984**

**Pages 869-940**



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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 9			
19	Monday Oct 22	Monday Oct 29	Monday Nov 5
20	Friday Oct 26	Friday Nov 2	Monday Nov 12
21	Friday Nov 2	Friday Nov 9	Monday Nov 19
22	Friday Nov 9	Friday Nov 16	Monday Nov 26

\*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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The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

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

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

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### 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 also.

#### 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 Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

#### The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

#### The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before July 31, 1983 are published in the *Minnesota Rules 1983*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules 1983* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES 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
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# PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Agriculture Planning Division

### Proposed Emergency Rules Relating to Agricultural Resource Loan Guaranty Program

#### Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above entitled emergency rules. The Commissioner of Agriculture will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in adopting these rules.

Persons interested in these emergency rules shall have 25 days from the date the rules are published in the *State Register* to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department.

Persons who wish to submit oral or written comments should submit the comments to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-1486.

Authority to adopt this rule is contained in Laws of Minnesota 1984, chapter 502, article 10, section 4, subd. 4. The Commissioner is authorized by this section to adopt emergency rules for administration of the Agricultural resource loan guaranty program. The program is intended to further the development of the states agricultural resources and improve the market for its agricultural products by providing financial guarantees for viable projects to enable qualified developers to secure private financing.

Upon adoption of the emergency rules, this notice, all written comments received, and the emergency Rules as Adopted, will be delivered to the Attorney General for review as to form and legality.

In accordance with Laws of Minnesota 1984, chapter 502, article 10, section 4, subd. 4, these emergency rules will be effective until December 31, 1985.

One free copy of this notice and the proposed emergency rules may be obtained by contacting Mr. Heil. Persons who wish to be notified by mail that the proposed emergency rule has been submitted to the Attorney General or who wish to receive a copy of the emergency rule as adopted should also contact Mr. Heil.

October 12, 1984

Jim Nichols  
Commissioner of Agriculture

#### Emergency Rules as Proposed (all new material)

##### 1580.0100 [Emergency] PURPOSE AND AUTHORITY.

Parts 1580.0100 to 1580.1200 [Emergency] are adopted under Laws of Minnesota 1984, chapter 502, article 10, section 4, subdivision 4, to effectuate the purposes of Laws of Minnesota 1984, chapter 502; article 10, and to establish a process for application and approval of loan guarantees for agricultural resource projects.

##### 1580.0200 [Emergency] DEFINITIONS.

**Subpart 1. Scope.** For purposes of parts 1580.0100 to 1580.1200 [Emergency], the terms defined in Laws of Minnesota 1984, chapter 502, article 10, section 2, and in this part have the meanings given them.

**Subp. 2. Chair.** "Chair" means the commissioner of finance acting as chair of the Agricultural Resource Loan Guaranty Board.

**Subp. 3. County authority.** "County authority" means a rural development finance authority, or any county exercising the power of a rural development finance authority, pursuant to Minnesota Statutes, chapter 362A.

**1580.0300 [Emergency] AVAILABILITY OF LOAN GUARANTEES.**

**Subpart 1. Purpose.** Loan guarantees are available from the board to further the development of the state's agricultural resources and to improve the market for its agricultural products.

**Subp. 2. Extent of guarantee.** The board may guarantee up to 90 percent, with accrued interest, of a loan for the construction and completion of a project or the refunding or refinancing of a loan. The total principal amount of any guaranteed loan may not exceed 80 percent of the total eligible costs of the project as estimated by the board at the time the commitment to guarantee is made. The remaining 20 percent of the total eligible costs must be financed from equity or other nondebt funds.

Costs of the project eligible for the guaranteed loan are defined in Laws of Minnesota 1984, chapter 502, article 10, section 2, subdivision 10, and include but are not limited to the following:

- A. land and building acquisition costs;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. equipment and machinery;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. permit and application fees, guarantee fees, insurance, letters of credit, and surety bonds;
- I. fees of the board for application and guarantee;
- J. certain contingency costs;
- K. interest costs during construction;
- L. legal fees; and
- M. costs of environmental review.

Working capital is not considered a cost of construction and completion of the project and is not eligible for inclusion in the guaranteed loan. Working capital may be financed through equity or by debt which is neither secured by the state's guarantee nor by pledge or mortgage of any of the security given for the guaranteed loan.

**Subp. 3. Security for guaranteed loan.** The guaranteed loan must be secured by a first mortgage lien and security interest in all real and personal property comprising the project and other collateral as provided in the loan agreement.

**Subp. 4. Increase in project costs.** If the actual cost of a project exceeds the board's cost estimate, the board may consent to an increase in the loan amount if it determines that the increased costs are reasonably required. The increase in the principal amount of the loan may not be greater than 80 percent of the excess costs. The board may guarantee up to 90 percent of the increase in the principal amount of the loan, and interest on that amount.

**1580.0400 [Emergency] REQUEST FOR COMMENTS.**

**Subpart 1. Request by county authority or borrower.** A county authority or a borrower may seek comments from the board with respect to a proposed project and its potential eligibility for a loan guarantee prior to submitting a complete application.

A request for comments must be made in writing to the chair and must include:

- A. the borrower's name, address, contact person, and telephone number;
- B. the amount of the loan guarantee requested and anticipated terms of the loan, including a description of the collateral and other security;

**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.

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- C. the name of the proposed lender, address, contact person, and telephone number;
- D. a brief description of the project and the technology involved, the agricultural resources used or processed, and the products and by-products it would provide;
- E. the amount of the borrower's equity and a description of other sources of financing available or considered for the project;
- F. the availability of raw materials and supplies;
- G. if the borrower is a corporation, the names and addresses of its parent, affiliates, and subsidiary firms and a brief description of the relationship, products, and ownership among the borrower, parent, affiliates, and subsidiary firms; and
- H. a description of any Minnesota products, processors, or producers which may compete with the project or its projects.

**Subp. 2. Reply by board.** Any comments by the board are intended to assist the borrower and county authority in evaluating the project and arranging the total financing package. The comments do not obligate the board to grant a loan guarantee, and they may be amended or reconsidered by the board without liability at any time prior to a formal resolution of the board authorizing a loan guarantee.

### 1580.0500 [Emergency] CONTENTS OF APPLICATION.

**Subpart 1. Application forms.** The chair shall prepare application forms for use by the county authority in seeking loan guarantees. The application must set forth information necessary for the determination of eligibility and must provide information similar to that required by an investment bank or other financial institution considering such a project for debt financing. The application forms must provide, among other things, the following information:

- A. a description of the scope, nature, extent, and location of the project, including a preliminary or conceptual design of the project and a description of the technology to be applied;
- B. the identity of the borrower and the prior construction and operating experience of the borrower as it relates to the project;
- C. a detailed, itemized estimate of the total cost of the project, including escalation and contingencies, with an explanation of the assumptions underlying the estimates;
- D. a general description of the financial plan of the project, including the mortgage and security interests to be granted as security for the guaranteed loan, and all sources of equity, grants, or contributions, or of borrowing which is not to be secured by the mortgage and security interests, or, if so secured, is expressly subordinated to the guaranteed loan;
- E. an environmental report analyzing potential environmental effects of the project, any necessary or proposed mitigation measures, and other available data which is relevant to an environmental assessment;
- F. a description of applications to be filed and an estimated timetable of approvals or permits required by federal, state, and local government agencies as conditions for construction and commencement of operation of the project;
- G. an estimated construction schedule;
- H. an analysis of the estimated cost and volume of production and market demand for the product, including economic factors justifying the analysis, and proposed and actual contracts or letters of intent relating to the supply of feedstock and raw materials and marketing or purchase of the production;
- I. pro forma cash flow statements for the first five years of project operation including income statements and balance sheets;
- J. a description of the borrower's organization and, where applicable, a copy of its articles of incorporation or partnership agreement and bylaws;
- K. the estimated amount of the loan and percentage of guarantee requested, the proposed repayment schedule, a description of all security and collateral, and other terms and conditions of the loan;
- L. an estimate of the amounts and times of receipt of guarantee fees, sales and use taxes, property tax increments, and any other governmental charges which may be available for the support of the state guarantee fund as a result of the construction of the project, with an analysis of the assumptions on which the estimate is based;
- M. a copy of any lending commitment or letter of intent issued by a lender to the borrower;
- N. a statement from the lender, if identified, as to its general experience in financing and servicing debt incurred for projects of the size and general type of the project, and its proposed servicing and monitoring plan;

O. a description of any legal actions pending or to be commenced against the borrower, including an explanation of each of these actions and borrower's defenses, if any;

P. a list of eligible lenders that have refused to finance the borrower's project and an explanation for each refusal;

Q. a description of all potentially competitive products which are produced or processed in Minnesota and an analysis of the competitive impact of the project on such competing products and producers;

R. any additional information reasonably related to the criteria in part 1580.0700 [Emergency] and reasonably required by the board to aid in its determination that the project conforms to Laws of Minnesota 1984, chapter 502, article 10, section 1.

**Subp. 2. Feasibility study.** The board may require a feasibility study for the project if it is necessary and reasonably related to its determination that the project is viable and eligible for a loan guarantee. The feasibility study may include any or all of the following evaluations the board considers necessary:

A. evaluation of the project site; availability of trained or trainable labor; utilities; rail, air, and road service to the site; and the overall economic impact of the project on the county and the state as a whole;

B. evaluation of the proposed sales organization and management; nature and extent of product market and geographic market area; marketing plans; extent of competition, both intrastate and interstate; and commitments from customers or brokers;

C. evaluation of the technology to be used in the project; its application and success in similar or related commercial applications; and the commercial feasibility of the proposed application of technology;

D. evaluation of the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow; assessment of the cost-accounting system; the availability of short-term credit for seasonal business; and the adequacy of raw material and supplies;

E. evaluation of the continuity, adequacy, and experience of management.

Any feasibility study must be prepared by a person whose qualifications and experience the board considers adequate. The study must be based upon sufficient data and analyses to justify the conclusions it contains.

**Subp. 3. Data privacy.** If the county authority, the borrower, or the lender considers any information provided in connection with the application and review process to be trade secret information as defined in Minnesota Statutes, section 13.37, that party shall take the following actions:

A. At the time the trade secret information is provided to the board or the board's agents or consultants, the nonpublic or private portions must be clearly identified and marked as trade secret information.

B. Efforts and procedures followed by the county authority, borrower, or lender to maintain secrecy of the trade secret information must be described.

C. A general statement of the reason for its independent economic value must accompany the information.

#### **1580.0600 [Emergency] APPLICATION PROCEDURE.**

**Subpart 1. Request by borrower or lender to county authority.** A borrower or lender desiring a loan guarantee shall request the county authority in the county in which the project is located to make an application on its behalf to the board. This written request must include the information described in part 1580.0400 [Emergency], subpart 1. The borrower or lender shall send a copy of the written request to the chair at the time it is submitted to the county authority.

The county authority shall consider the request and determine whether or not to proceed with an application. The county authority may require the borrower or lender to provide additional information which is necessary and reasonably related to its determination whether to proceed with an application. The county authority shall notify the borrower or lender and the chair of its determination after receipt of all information required by the county authority.

**Subp. 2. Application forms.** The board shall provide application forms for use by the county authority seeking a loan guarantee. The completed application forms with all required exhibits and attachments must be submitted to the chair.

**Subp. 3. Application.** At the time the application is filed, the county authority shall pay a fee equal to 0.25 percent of the amount of the loan guarantee requested. The fee must be paid to the commissioner of finance. The board shall charge against

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## PROPOSED RULES

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the fee its costs of processing, reviewing, and evaluating the application. The costs charged against the fee may include the direct and indirect cost of work performed by state employees and the advisory committee, together with the fees, charges, and expenses paid to consultants or professionals the board considers necessary and reasonably required for its determination of project viability and eligibility for a loan guarantee.

If the board determines not to issue a commitment for the project, the remaining fee balance must be refunded to the county authority. If the board issues a commitment for the project, the remaining fee balance must be transferred from the general fund to the project account in the guarantee fund and credited against the amount of the commitment fee required in part 1580.0800 [Emergency], subpart 1.

The county authority may require the proposed borrower to pay the application fee, in which case any refund made to the county authority must be returned to the borrower.

**Subp. 4. Review for completeness.** The chair shall review the application for completeness and notify the county authority of any additional information required. When all required information has been received, the chair shall send copies of the application to each of the board members for their review.

**Subp. 5. Board's consideration of application.** The board shall consider the completed application and may seek assistance from its advisory committee. The board may hire consultants or professionals reasonably required for an evaluation of the viability of the project and a determination of eligibility.

**Subp. 6. Approval and conditional commitment.** If the board approves an application, it may adopt a resolution which conditionally commits the state to guarantee the portion of the proposed loan the board determines, not exceeding the limit in part 1580.0300 [Emergency], subpart 2. The commitment is not binding upon the state until and unless the following conditions are satisfied:

A. The board has created an account for the project in the guarantee fund and has allocated to the project account an aggregate amount sufficient to pay the entire guaranteed principal amount of the proposed loan, plus interest on that amount for one year. Allocation to the account may be made from one or more of the following sources:

(1) funds previously appropriated by the legislature, if any;

(2) proceeds of bonds issued or to be issued for purposes of the guarantee fund, pursuant to legislative authority previously enacted;

(3) fees, balances, or reserves paid by the county authority, borrower, or lender in connection with the loan guarantee program.

The bonds authorized by the legislature need not be issued until and unless the proceeds allocated to the project account must be deposited to comply with item B or C.

B. The board has deposited in the project account an amount not less than the annual amount which would be required to amortize the guaranteed portion of the principal of the loan over the term and at the interest rate (or at the rate of yield resulting from the interest rates) provided in the loan agreement. The deposit may be made from any of the sources provided for allocation in item A.

C. The board has executed on behalf of the state a final loan guarantee agreement in conformity with part 1580.0900 [Emergency]. The agreement must bind the state to offer state bonds for sale as required to pay all amounts which become due and payable under the loan guarantee, within the authorization and allocation referred to in item A, and to issue the bonds when sold and apply the proceeds to make payment under the guarantee.

**Subp. 7. Denial of application.** If the application is disapproved, the chair shall notify the applicant in writing of the denial.

**Subp. 8. Misrepresentation in application.** The board may reject any application, may revoke any notice of approval, and may refuse to close any loan in the event that any information provided in the application contains a material misrepresentation or omission. The county authority and the borrower have an affirmative and continuing duty to update and correct all information provided to the board or to the lender.

### **1580.0700 [Emergency] CRITERIA FOR APPROVAL OF LOAN GUARANTEE.**

**Subpart 1. Conformity to purposes.** The board shall determine the extent to which the project will further the development of the state's agricultural resources and improve the market for its agricultural products. The board shall also consider the extent to which the public subsidies sought by the applicant under the program would provide the project with an unfair advantage in competing with other products produced or processed in Minnesota.

**Subp. 2. Factors to be evaluated.** In considering applications, the board shall consider the following factors:

A. the viability of the project, including economic and commercial feasibility, technical feasibility, financial projections, and managerial capability;

- B. conformity of the project to Laws of Minnesota 1984, chapter 502, article 10, section 1;
  - C. conformity of the project to environmental standards;
  - D. the qualifications and credit history of the owners, operators, and lenders;
  - E. the nature and extent of the security;
  - F. the degree of financial participation by private persons not supported by the guarantee;
  - G. the availability of the board's bonding authority, proceeds, and money from other sources to support the guarantee;
- and
- H. the market conditions and terms required for the sale of any bonds needed to support the guarantee.

**1580.0700 [Emergency] GENERAL TERMS AND CONDITIONS OF LOAN GUARANTEES.**

The loan guarantee or agreement pertaining to a guaranteed loan must provide, among other things, the following:

- A. Payments of principal and interest made by the borrower under the loan must be applied by the lender to reduce the guaranteed and nonguaranteed portion of the loan on a proportionate basis, and the nonguaranteed portion may not in any event receive preferential treatment over the guaranteed portion.
- B. A period of grace must be allowed of not less than 60 days from the date a principal or interest payment is due, prior to the making of demand for payment pursuant to the loan guarantee, to permit adequate time for a decision by the board regarding principal and interest assistance in accordance with part 1580.1000 [Emergency]. Payment as required by the loan guarantee must be made within 60 days of receipt by the board of a written demand complying with the terms and conditions of the guarantee.
- C. The lender may not accelerate a payment of the loan or exercise other remedies available to the lender if the borrower defaults, unless: (1) the borrower fails to pay a required payment of principal or interest; (2) the board consents in writing; or (3) as otherwise permitted in the loan guarantee. In the event of a default, the lender may not make demand for payment pursuant to the guarantee unless the board agrees in writing that the default has materially affected the rights or security of the parties, and the board finds that the lender should be entitled to receive payment pursuant to the loan guarantee.
- D. If a payment of principal or interest is made by the board upon default of the borrower, the state is subrogated to the rights of the lender with respect to the payment.
- E. The borrower shall have promptly prepared and delivered to the board annual audited financial statements of the project prepared according to generally accepted accounting principles.
- F. Duly authorized representatives of the board including any trustee appointed under part 1580.1200 [Emergency], subpart 1, shall have access to the project site at reasonable times during construction and operation of the project.
- G. The borrower shall maintain adequate records and documents concerning the construction and operation of the project in order that representatives of the board may determine its technical and financial conditions and its compliance with environmental requirements. The records shall include the amounts of all sales and use taxes paid on personal property and services purchased for the construction and operation of the project, with tax receipts furnished by the sellers or other supporting documentation determined by the board to be satisfactory. The amounts of those taxes must be reported to the board in the manner and at the times required by the board.
- H. The borrower shall protect and preserve at all times the project assets and other collateral securing the loan and shall assist in liquidation of collateral to minimize loss in the event of default.
- I. Orderly liquidation of assets of the project must be provided for in the event of default, with an option on the part of the board to acquire from the lender the lender's interest in the assets pursuant to the nonguaranteed portion of the loan.
- J. The state must be paid at or prior to the closing of the guaranteed loan a fee or fees for the loan guarantee or the commitment to guarantee the loan. The aggregate fee may not exceed one percent of the total principal amount of the guaranteed portion of the loan.
- K. The lender shall perfect and maintain the mortgage lien on the real estate and security interest in personal property

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## PROPOSED RULES

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and collateral granted as security for the loan, and shall cause all other loan servicing functions to be performed which are normally required or performed by a reasonable and prudent lender with respect to a loan without a guarantee.

L. The lender must notify the board in writing without delay of: (1) the date and amount of and basis for each disbursement of loan proceeds; (2) any nonpayment of principal or interest due, within ten days after the due date and with evidence of notification to the borrowers; (3) any failure to honor a commitment by any person of an intended source of capital for the project; and (4) any significant adverse changes from original cash flow projections as evidenced by reports from the borrower, or any other known evidence that the borrower might be unable to meet a future scheduled payment of principal or interest.

M. The board or the lender may determine that the loan is in default when: (1) scheduled payments are 60 days past due; (2) the borrower is or may become unable to meet in full principal or interest payments, or both, which are due or to become due within a specified period; or (3) the board and the lender mutually determine and agree that the project is no longer viable and financially feasible.

N. The borrower must be required to establish a reserve, from the proceeds of the loan or otherwise, to be maintained with the lender or with a trustee for the holders of the borrower's obligations, in cash or securities of a specified market value not less than the annual amount which would be required to amortize the entire amount of the loan over the term (or at the rate of yield resulting from the interest rates) provided in the loan agreement.

### **1580.0900 [Emergency] PRINCIPAL AND INTEREST ASSISTANCE.**

**Subpart 1. Availability of assistance.** The board may at any time enter into a written assistance contract with the borrower to pay the lender, on behalf of the borrower, an amount not greater than the amount of principal and interest to become due on one or more subsequent dates, without acceleration, if the board determines that: (1) the borrower is not more than 60 days overdue in payments of principal or interest due; (2) the borrower is or may become unable to meet in full principal or interest payments, or both, which are due or to become due within a specified period; (3) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; (4) the probable net financial loss to the state will be less than that which would result in the event of a default; (5) the borrower is obligated by the assistance contract to reimburse the state for all principal or interest advanced, with interest on those amounts, upon terms and conditions satisfactory to the board; and (6) funds are available for allocation to the account established for the project in the guarantee fund, and are continuously allocated to the account in accordance with Laws of Minnesota 1984, chapter 502, article 10, in an amount equal to the amount of interest on the advances until actually reimbursed to the state by the borrower.

**Subp. 2. Terms of assistance.** All sums advanced and interest on those amounts must be secured by the mortgage lien and security interest granted by the loan agreement, but none of the advances may thereafter be repaid to the state until and unless all principal and interest currently due on the loan has been fully paid. In the event of subsequent default by the borrower, acceleration by the lender, and payment by the state of the full amount due under the loan guarantee, the state is subrogated to the rights of the lender with respect to the principal paid by it under the contract. Upon payment of the loan in full, with accrued interest, the remaining amount of the advances and interest on the advances may be paid by the state.

### **1580.1000 [Emergency] ENVIRONMENTAL ASSESSMENT.**

Notwithstanding any other law or rule, no environmental impact statement must be completed prior to the following events:

- A. the approval of the application and the issuance of a conditional commitment for a loan guarantee;
- B. the issuance of bonds; or

C. the taking of any other action permitted by parts 1580.0100 to 1580.1200 [Emergency] which is considered necessary or desirable by the board to prepare for a final commitment and to make it effective.

Environmental review, to the extent required by law, must be made in conjunction with the issuance by state agencies of environmental permits for the project. Applications for permits may be made prior to the issuance of a conditional commitment. Action must be taken as expeditiously as possible on environmental review and all permits required. Environmental review must be completed within 180 days after the initial filing of an application to the Pollution Control Agency for the first permit. Final action must be taken on permits within 90 days after completion of environmental review or, as to any permit requiring a public hearing, within 90 days after the receipt of the hearing examiner's report.

### **1580.1100 [Emergency] ADVISORY COMMISSION.**

The board may appoint an advisory commission, consisting of at least five members. The advisory commission must include individuals with expertise in agricultural processing, commercial lending and financing of similar or related projects, agricultural economics, and engineering, chemistry, and other natural sciences related to the projects. Upon request by the board, the advisory commission may advise the board on policies and procedures relating to the loan guarantee program and may provide assistance in evaluating applications for loan guarantees.



**1580.1200 [Emergency] LOAN ADMINISTRATION.**

**Subpart 1. Trustee.** The board may appoint a trustee who has expertise in commercial lending and financing of similar or related projects. As directed by the board, the trustee shall monitor the construction and progress of the project and the loan payments by the borrower. The trustee shall work with the lender to ensure prompt payments by the borrower, and shall report any loan payment delays or defaults to the board.

**Subp. 2. Servicing.** The lender shall service the loan and receive all payments of principal and interest. In the event of default, the lender shall continue to service the loan if requested by the board to do so.

## **Department of Commerce**

### **Proposed Rules Relating to Insurance Continuing Education**

#### **Notice of Hearing**

Notice is given that a public hearing will be held pursuant to Minn. Stat. § 14.14, Subd. 1, as amended by Minn. Laws 1984, ch. 640 in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on December 14, 1984, at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing by sending them to Administrative Law Judge, Peter C. Erickson, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7606. The rule hearing procedure is governed by Minn. Stat. §§ 14.02-14.45, as amended by Minn. Laws 1984, ch. 640, and by Minn. Rule 1400.0200-1400.1200 (10831). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

The Commissioner proposes to adopt rules relating to continuing education for insurance agents. Authority for adoption of these rules is contained in Minn. Stat. § 60A.1701, Subd. 6(c). A copy of the proposed rules accompanies this notice.

The proposed rules, if adopted, will govern Continuing Education for Insurance Agents and are intended to assure the quality of courses as well as to set the administrative procedure for course approval, course credit, reporting requirements and similar functions.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Department of Commerce and will be available at the Office of Administrative Hearings 25 days prior to the hearing.

Pursuant to Minn. Laws 1983, ch. 188 codified as Minn. Stat. § 14.115, Subd. 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

All interested or affected persons will have an opportunity to participate by presenting oral and/or written evidence at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in order to explain the purpose or intended operation of the proposed rules, or a suggested modification, or for other purposes material to the evaluation or formulation of the proposed rules.

As a result of the hearing process, the proposed rule may be modified. Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the five to twenty day submission period, there will be a three-day period in which the Commissioner and interested persons may respond in writing to any new information submitted. During the three-day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three-day period. The written responses will be added to the record of the proceeding.

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Notice: Any person may request notification of the date on which the Administrative Law Judge's Report will be available, after which date the Department of Commerce may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing records have been filed with the Secretary of State. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as an individual:

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

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

One free copy of this notice and the proposed rules may be obtained by contacting Rose Weiner, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Michael A. Hatch  
Commissioner of Commerce

### Rules as Proposed (all new material)

#### 2725.0100 DEFINITIONS.

**Subpart 1. Scope.** For the purpose of parts 2725.0100 to 2725.0230, the following terms have the meanings given them.

**Subp. 2. Coordinator.** "Coordinator" means an individual who is responsible for monitoring continuing education offerings.

**Subp. 3. Correspondence courses.** "Correspondence courses" means courses that have been offered by a provider that has been in existence for at least five years; or courses approved by the National Home Study Council.

**Subp. 4. Instructor.** "Instructor" means an individual lecturing in a continuing education offering.

**Subp. 5. Licensee.** "Licensee" means a natural person licensed by this state to sell classes of insurance for which licensing examinations are required.

**Subp. 6. National examinations.** "National examinations" means examinations taken pursuant to, or examinations related to or taken in the course of:

A. The Life Underwriter Training Council (LUTC) life course curriculum or the health course curriculum.

B. The American College of Life Underwriters Chartered Life Underwriter (CLU) diploma curriculum or Chartered Financial Consultant (ChFC).

C. The International Association of Financial Planners Chartered Financial Planning (CFP) program.

D. The Insurance Institute of America's program in general insurance, Associate in Risk Management, Associate in Underwriting, Associate in Loss Control Management, Associate in Premium Auditing, Associate in Research and Planning, Associate in Claims, or the Accredited Advisor in Insurance (AAI) program.

E. The American Institute for Property and Liability Underwriters Chartered Property Casualty Underwriter (CPCU) professional designation program.

F. The National Association of Health Underwriters Registered Health Underwriter program (RHU).

G. The Health Insurance Association of America's HIAA program.

H. The Academy of Life Underwriting Educational Council (LUEC) program.

I. The Certified Insurance Counselor (CIC) program.

**Subp. 7. Person.** "Person" means a natural person, firm, institution, partnership, corporation, or association.

**Subp. 8. Sponsor.** "Sponsor" means a person offering or providing insurance education.

**2725.0110 GENERAL REQUIREMENTS.**

**Subpart 1. Courses approved for credit.** Only courses which impart substantive and procedural knowledge relating to the insurance field shall be approved for credit.

**Subp. 2. Nonapproved courses.** The following are not approved courses:

- A. a course which is approved for prelicense training;
- B. courses designed to prepare students for a license examination;
- C. courses in mechanical office or business skills, including typing, speed reading, or use of calculators or other machines or equipment;
- D. courses in sales promotion, including meetings held in conjunction with the general business of the licensee;
- E. courses in motivation, salesmanship, psychology, time management, or communication;
- F. courses related to office management or intended to improve the operation of the licensee's business; or
- G. courses relating to the specific products of a specific company.

**Subp. 3. Automatic approval.** The commissioner shall grant automatic approval for insurance related courses approved by the Department of Commerce for real estate education, the Board of Continuing Legal Education for legal education, or similar regulatory offices within Minnesota.

The commissioner shall grant automatic approval for courses approved by the insurance regulatory agency in another state if the course does not conflict with parts 2725.0100 to 2725.0230.

**Subp. 4. Credit hours.** Except as otherwise provided, courses must be attended in their entirety in order for a licensee to receive credit. No credit will be given for partial attendance at a course.

Upon completion of approved courses, students shall receive credit for the number of hours approved for the course based on one hour of credit for each hour of attendance.

If the number of credit hours for which a course is approved is fewer than the total number of hours of the course, the student must attend the entire course in order to receive credit for the number of approved hours.

The number of approved hours will not include time spent on meals, breaks, or other unrelated activities.

The approved instructor shall earn 1½ hours of continuing education credit for each one hour of instruction of approved courses.

Neither students nor instructors may earn credit for attending or instructing at any subsequent offering of the same course for three years after attending or teaching the course.

**Subp. 5. Examinations.** Course examinations will not be required for continuing education courses unless the sponsor requires an examination.

**Subp. 6. Textbooks.** Textbooks are not required for continuing education courses. If textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title, times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject matter to be covered. A textbook or syllabus must be available for the use of each student during the course. Any printed material disbursed to the students must be of a readable quality. Any textbook required must contain accurate and current information relating to the subject being taught.

**Subp. 7. Approval of course offerings.** Sponsors must submit their courses to the commissioner for approval at least 30 days prior to the date on which the course is to be held. Each application for approval of a course offering must be accompanied by the application for approval of the instructor. Applications must be submitted on forms prescribed by the commissioner.

**Subp. 8. Approval of courses not submitted for approval.** Licensees may receive continuing education credit for courses attended which have not been submitted for approval by a coordinator. Requests for approval of these courses must be submitted on forms prescribed by the commissioner.

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**Subp. 9. Advertising.** Courses cannot be advertised in any manner as approved unless approval has been granted, in writing, by the commissioner.

Upon written request by a sponsor, the commissioner shall grant permission, in writing, to the sponsor to use the term "approval pending" if it is clearly visible in the advertisement and if in fact the course has been submitted to the commissioner for approval in accordance with subpart 7.

All advertising relating to approved course offerings must contain the following statement: "This course has been approved by the commissioner of commerce for insurance continuing education credit." This statement must be prominently displayed on the cover of any pamphlet, advertisement, or circular.

The number of hours for which a course has been approved shall be prominently displayed on any advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

Advertising must be truthful, clear, and not deceptive or misleading.

Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

**Subp. 10. Approval of subsequent offerings.** If approval has been granted for the initial offering of a course, approval for subsequent offerings of identical courses shall be granted without requiring a new application if a "Notice of Subsequent Offering" is filed with the commissioner at least 30 days in advance of the date the course is to be held. Identical courses are those covering substantially the same material.

**Subp. 11. Courses must be open.** All course offerings shall be open to any interested individuals.

**Subp. 12. Fees.** Fees for courses shall be reasonable and clearly identified to students.

Reasonable discounts of tuition shall be offered.

If a course is canceled for any reason, all fees shall be returned promptly. In all instances, the fees must be refunded within 30 days of cancellation.

In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or having their tuition refunded in full. In all instances, the fees must be refunded within 30 days of postponement.

A sponsor shall have a refund policy addressing student's cancellation or failure to complete a course, as long as that policy is clear to potential students.

**Subp. 13. Adequate facility to be used.** Each course of study shall be conducted in a classroom or other facility which is adequate to comfortably accommodate the faculty and the number of students enrolled.

**Subp. 14. National examinations.** A licensee shall receive 20 hours of continuing education credit for passing a recognized national examination.

Credit shall not be received for both attending courses leading to the national examination and passing the national examination.

**Subp. 15. Company-sponsored courses.** Licensees may not receive more than half of their continuing education requirement for a particular reporting period in courses sponsored by an insurance company.

Insurance companies sponsoring insurance continuing education courses shall not require their agents to attend their courses.

**Subp. 16. Correspondence courses.** The amount of credit received by an agent for a correspondence course shall be based on successful completion of the course and subject to the number of hours assigned by the commissioner.

Any offeror of correspondence courses shall clearly disclose to any agent wishing to receive credit in Minnesota the number of hours for which that particular course has been approved by the commissioner.

Licensees may not receive more than half of their continuing education requirement for a particular reporting period in correspondence courses.

### **2725.0120 FALSIFICATION OF REPORTS.**

A licensee found to have falsified a continuing education report to the commission shall be considered to have violated the insurance licensing law, and shall be subject to suspension or revocation of his or her insurance license.

### **2725.0130 COMMISSIONER'S RIGHT TO AUDIT.**

The commissioner reserves the right to audit subject offerings with or without notice to the sponsor.

**2725.0140 GENERAL POWERS OF COMMISSIONER.**

The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined not to be in compliance with the statute or rules governing the offering of insurance continuing education courses. The commissioner may also refuse to approve courses by specific sponsors if it is determined that past offerings have not been in compliance with continuing education laws and rules.

**2725.0150 MANDATORY NOTICE TO STUDENTS.**

At the beginning of each approved continuing education offering, the following notice shall be read to the students: "This course has been approved by the commissioner of commerce for . . . . (number) hours of insurance continuing education credit. If you have any comments about this offering, please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101."

**2725.0160 COURSE COORDINATOR.**

**Subpart 1. General requirement.** Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with the statutes and rules governing the offering of insurance continuing education courses. Assistants may be hired by the sponsor; however, the approved coordinator remains responsible for compliance with the laws.

**Subp. 2. Qualifications.** Course coordinators shall possess the following qualifications:

- A. a minimum of five years (during the immediately preceding five-year period) as an active licensed insurance agent;
- B. at least three years (during the immediately preceding five-year period) full-time experience in the administration of an education program; or
- C. a degree in education plus at least two years (during the immediately preceding five-year period) insurance experience.

**Subp. 3. Forms.** Applications for coordinator approval shall be submitted on forms prescribed by the commissioner.

**Subp. 4. Responsibilities.** The coordinator must:

- A. Assure compliance with all laws and rules pertaining to insurance continuing education.
- B. Notify the commissioner of any material change in applications for course or instructor approval.
- C. Assure that students are provided with current and accurate information.
- D. Supervise and evaluate courses and instructors. The commissioner may request written evaluations of courses and/or instructors either by students or coordinators.
- E. Investigate written complaints relating to course offerings and/or instructors, and forward a copy of the written complaints to the Department of Commerce.
- F. Maintain accurate records relating to course offerings, instructors, and student attendance for a period of five years from the date the course was completed. If the coordinator leaves the employ of the sponsor, the records must be turned over to the replacement coordinator or an officer of the sponsor. If a sponsor ceases operation, the coordinator shall be responsible for maintaining the records or providing a custodian of the records acceptable to the commissioner. In order to be acceptable, custodians must agree to make copies of student records available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records.
- G. Be available to instructors and students throughout the course offerings, and provide the name of the coordinator and a telephone number at which he or she can be reached.
- H. Attend workshops or instructional programs as reasonably required by the commissioner.
- I. Provide students with course completion certificates, on a form prescribed by the commissioner, within 30 days of completion of the course. Notwithstanding the preceding sentence, a coordinator may require payment of the course tuition as a condition for receiving the course completion certificate.

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### 2725.0170 INSTRUCTORS.

**Subpart 1. General requirement.** Failure to have only approved instructors teach at an approved continuing education offering will result in loss of course approval.

**Subp. 2. Qualifications.** Instructors shall possess the following qualifications:

- A. three years of recent experience in the subject area being taught;
- B. a degree in the subject area being taught; or
- C. two years of recent experience in the subject area being taught and 60 hours of course work in the subject area being taught.

**Subp. 3. Responsibilities.** Approved instructors must:

- A. comply with all laws and rules pertaining to insurance continuing education;
- B. provide students with current and accurate information;
- C. maintain an atmosphere conducive to learning in a classroom;
- D. provide assistance to the students and respond to questions relating to course material; and
- E. attend such workshops or instructional programs as are reasonably required by the commissioner.

### 2725.0180 MANAGEMENT RESPONSIBILITY OF SPONSORS.

Sponsors of continuing education courses are responsible for the actions of the coordinators and instructors.

### 2725.0190 PROHIBITED PRACTICES.

The following practices of sponsors, coordinators, and instructors are prohibited:

- A. misrepresenting any material submitted to the commissioner;
- B. promoting any particular insurance agency or company or their products; and
- C. requiring students to participate in other programs or services offered by the sponsor, coordinator, or instructor.

### 2725.0200 NOTIFICATION REQUIREMENTS FOR COORDINATORS AND INSTRUCTORS.

Coordinators and instructors must notify the commissioner within ten days after the occurrence of the following:

A. A felony or gross misdemeanor conviction or of disciplinary action taken against an insurance or other occupational license held by the coordinator or instructor. The conviction or action may be grounds for denying or revoking instructor or coordinator approval.

B. Any change of information contained in an application for approval.

### 2725.0210 LICENSEE REPORTING REQUIREMENT.

Continuing education credit must be reported by the licensee on forms and in a manner prescribed by the commissioner.

### 2725.0220 WAIVERS.

If a licensee provides satisfactory documentation to the commissioner that he or she is unable, and will continue to be unable, to attend actual classroom course work, because of a physical handicap, medical condition, or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one year. The commissioner shall require that the individual read a reasonable number of insurance textbooks, or listen to a reasonable number of insurance related tapes. The licensee may apply each year for a new waiver upon the same terms and conditions as were necessary to secure the original waiver. The commissioner may request such documentation of the condition upon which the request for waiver is based as shall be necessary to satisfy the commissioner of the existence of the condition and that the condition does preclude attendance at continuing education courses.

### 2725.0230 EXTENSIONS.

Upon appropriate showing of a bona fide financial or medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship.

Requests for extensions must be submitted in writing no later than April 1 of the year due and shall include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study.

## **Department of Human Services Licensing Division**

### **Proposed Rules Relating to Family Day Care and Group Family Day Care**

#### **Notice of Hearing**

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 112, State Capitol, St. Paul, Minnesota 55155, on November 30, and December 1, 1984, commencing at 9 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.01-14.56 and by Minnesota Rules part 1400.0200-1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9545.0315 to 9545.0445 establish procedures and standards for licensing family day care and group family day care homes by the Minnesota Department of Human Services so that minimum levels of care and service are given and the protection, proper care, health, safety, and development of the children is assured.

Parts 9545.0315 to 9545.0445 include definitions; standards for applicability and exclusion from licensure; the licensing process; the role and responsibilities of the county licensing agency; procedures for negative licensing actions; agency and provider records; caregiver qualifications and training; licensed capacity and staff ratios; and standards for behavior guidance and discipline, admissions, child care program and activities, equipment, physical environment and safety, sanitation and health, water, food and nutrition.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 245.781 to 245.812. The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for either of the first two years following passage of the rule.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Kay Weber, Licensing, Department of Human Services, 6th Floor, Space Center, St. Paul, Minnesota, 55102, telephone 612/297-3528. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Jane Nelson, Rules Unit, Department of Human Services, 4th Floor, Centennial Building, St. Paul, Minnesota, 55155, telephone 612/297-1217.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Note: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the rule has been adopted and filed by the agency with the Secretary of State. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a

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written request to the Administrative Law Judge (in the case of the Administrative Law Judge's report), or to the agency (in the case of the agency's submission to the Secretary of State).

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

October 5, 1984

Leonard W. Levine  
Commissioner of Human Services

### Rules as Proposed (all new material)

#### 9545.0315 DEFINITIONS.

**Subpart 1. Applicability.** As used in parts 9545.0315 to 9545.0445, the following terms have the meanings given them.

**Subp. 2. Adult.** "Adult" means a person at least 18 years of age.

**Subp. 3. Agency.** "Agency" means the county social or human service agency governed by the board of county commissioners.

**Subp. 4. Applicant.** "Applicant" means the person seeking a license to be the primary provider of day care in the residence.

**Subp. 5. Building official.** "Building official" means the person appointed in accordance with Minnesota Statutes, section 16.861, to administer the State Building Code, or the building official's authorized representative.

**Subp. 6. Caregiver.** "Caregiver" means the provider, substitute, helper, or another adult giving care in the residence.

**Subp. 7. Child.** "Child" means a person 12 years of age or younger.

**Subp. 8. Commissioner.** "Commissioner" means the Minnesota commissioner of the Department of Human Services or the commissioner's authorized representative.

**Subp. 9. Day care.** "Day care" means the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

**Subp. 10. Department.** "Department" means the Minnesota Department of Human Services.

**Subp. 11. Family day care.** "Family day care" means day care for no more than ten children at one time of which no more than six are under first grade. The licensed capacity must include all children of any caregiver when the children are present in the residence.

**Subp. 12. Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.01 to administer and enforce the Minnesota Life Safety Code, or the fire marshal's authorized representative.

**Subp. 13. Group family day care.** "Group family day care" means day care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

**Subp. 14. Helper.** "Helper" means a person at least 13 years of age and less than 18 years of age who assists the provider with the care of children.

**Subp. 15. Health officer.** "Health officer" means the designated representative of the state or local public health board authorized by Minnesota Statutes, section 145.01, to enforce state and local health codes.



**Subp. 16. Infant.** "Infant" means a child who is at least six weeks of age but less than 12 months of age.

**Subp. 17. License.** "License" means a certificate issued by the commissioner authorizing the provider to give specified services for a specified period of time in accordance with the terms in parts 9545.0315 to 9545.0445; Minnesota Statutes, sections 245.781 to 245.813; and the rules of the department.

**Subp. 18. Licensed capacity.** "Licensed capacity" means the total number of children 12 years of age or younger permitted at any one time in the provider's residence. The licensed capacity includes all children of any caregiver when the children are present in the residence.

**Subp. 19. Medicine.** "Medicine" means a prescription or nonprescription substance taken internally or applied externally to prevent or cure disease, heal, or relieve pain.

**Subp. 20. Newborn.** "Newborn" means a child between birth and six weeks of age.

**Subp. 21. Parent.** "Parent" means a person who has the legal responsibility for a child such as the child's mother, father, or legally-appointed guardian.

**Subp. 22. Preschooler.** "Preschooler" means a child at least 30 months of age up to enrollment in first grade.

**Subp. 23. Program.** "Program" means those physical, social, emotional, learning, and development activities provided for a child.

**Subp. 24. Provider.** "Provider" means the license holder and primary caregiver.

**Subp. 25. Related.** "Related" means any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, child, niece, nephew. Related also includes a legally-appointed guardian.

**Subp. 26. Regularly or regular basis.** "Regularly" or "regular basis" means a cumulative total of more than 30 days within any 12-month period.

**Subp. 27. Residence.** "Residence" means the dwelling unit, as defined by section 405 of the State Building Code, in which the provider resides.

**Subp. 28. School age.** "School age" means a child 12 years of age or younger and enrolled in at least the first grade.

**Subp. 29. Substitute.** "Substitute" means an adult at least 18 years of age who assumes the responsibility of the provider during illness, emergencies, vacations, or holidays.

**Subp. 30. Toddler.** "Toddler" means a child at least 12 months of age but less than 30 months of age.

**Subp. 31. Variance.** "Variance" means written permission by the commissioner for a provider or applicant to depart from the provisions of parts 9545.0315 to 9545.0445.

#### **9545.0325 LICENSING OF FACILITIES FOR CHILDREN FAMILY DAY CARE AND GROUP FAMILY DAY CARE HOMES.**

**Subpart 1. Purpose.** The purpose of parts 9545.0315 to 9545.0445 is to establish procedures and standards for licensing family day care and group family day care homes to ensure that minimum levels of care and service are given and the protection, proper care, health, safety, and development of the children are assured.

**Subp. 2. Applicability.** Parts 9545.0315 to 9545.0445 as authorized by Minnesota Statutes, sections 245.781 to 245.812, govern the licensing of family day care homes and group family day care homes.

**Subp. 3. Exclusion from licensure.** Under Minnesota Statutes, section 245.791, the following day care situations are excluded from licensure under parts 9545.0315 to 9545.0445:

- A. day care provided by a relative to only related children; or
- B. day care provided to children from a single, unrelated family, for any length of time; or
- C. day care provided for a cumulative total of less than 30 days in any 12-month period; or
- D. the exclusions contained in items A and B are mutually exclusive.

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### 9454.0335 LICENSING PROCESS.

**Subpart 1. License application.** A person who operates a family day care residence or group family day care residence shall obtain a license from the department.

A. Application for a license must be made on the application form issued by the department and obtained from the agency. The application must be made in the county where the applicant resides.

B. The applicant shall be the person who will be the provider of care in the residence, present during the hours of operation, and who shall be legally responsible for the operation of the residence.

C. The agency shall supply the applicant with the department application form, a copy of parts 9545.0315 to 9545.0445, and agency or department documentation forms needed to determine compliance with parts 9545.0315 to 9545.0445. The agency shall stamp and date a signed and completed department application form on the date of receipt.

D. An application for licensure is complete when the applicant completes, signs, and submits all agency and department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with parts 9545.0315 to 9545.0445 and Minnesota statutes.

**Subp. 2. Licensing study.** The applicant shall give the agency access to the residence for a licensing study to determine compliance with parts 9545.0315 to 9545.0445.

A. A representative from the agency and the applicant shall complete a home safety checklist supplied by the department to aid in determining compliance with the physical environment, health, and safety requirements specified in parts 9545.0315 to 9545.0445. If, in the judgment of the agency representative, a potentially hazardous condition may be present, an inspection from a fire marshal, building official, or health officer is required to verify the hazard and report to the agency.

B. The residence must comply with any applicable local building, fire, health, or zoning codes and ordinances, and the applicant shall verify compliance to the agency prior to licensure. Any condition cited by a fire marshal, building official, or health officer as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected prior to licensing.

C. An inspection of the residence by a fire marshal to determine compliance with parts 9545.0315 to 9545.0445 and compliance with orders issued are conditions of licensure for manufactured (mobile) homes; new group family day care residence applications; day care residences which use the basement for child care; and residences in mixed or multiple occupancy buildings. "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome. "Mixed occupancy building" means a residence in a structure that contains nonresidential occupancies.

D. An inspection of the residence by a fire marshal or building official to determine compliance with parts 9545.0315 to 9545.0445 and compliance with orders issued is a condition of licensure for all residences with freestanding solid fuel heating appliances.

E. The commissioner or agency may require, prior to licensure, or anytime during the licensed term of day care, a physical, mental, or chemical dependency evaluation of any caregiver or person living in the residence or present during the hours children are in care. Such evaluations, conducted by a licensed physician, psychiatrist, psychologist, consulting psychologist, or certified chemical dependency practitioner or counselor, may be used to verify physical or mental illness, chemical dependency, or behavior that would reflect on the ability of the provider to give day care.

**Subp. 3. Licensing agency.** The agency shall accept and process applications for licensure and recommend license suspensions and revocations under parts 9545.0315 to 9545.0445.

A. The agency shall conduct the initial licensing study of the residence and the investigation of caregiver qualifications and the annual relicensing study.

B. The agency shall evaluate and recommend an application for approval or denial of licensure to the department within 60 days after the agency has in its possession all completed and signed forms, reports, evaluations, information, and documentation required from the applicant and all inspection, zoning, and investigative reports required to verify compliance with parts 9545.0315 to 9545.0445.

C. The agency shall notify the local zoning administrator at least 30 days prior to the initial issuance date of a license. The date the local zoning administrator was notified must be noted on the application form.

D. If a recommendation cannot be made by the agency within 60 days after all information, documentation, and evaluations necessary to verify compliance with the rule parts has been received, the agency must inform the applicant and department in writing why a recommendation cannot be made.

**Subp. 4. Period of licensure; nontransfer.** A license must be issued by the department for up to one year when the provider fully complies with parts 9545.0315 to 9545.0445. The license must not be transferred to another provider.

**Subp. 5. Provisional license.** An applicant for initial licensure may be granted a provisional license by the department for up to one year if all laws and rules cannot be met immediately, the deviations from parts 9545.0315 to 9545.0445 do not threaten the health, rights, or safety of the children, and which will be corrected within the time specified by the commissioner but not to exceed one year. Failure to correct deviations within the stated time shall be cause for revocation, suspension, or nonrenewal. Deviations from the following parts 9545.0315 to 9545.0445 do not threaten the health or safety of children in care, but must be brought into compliance within one year:

- (1) part 9545.0405, subpart 3, item K (Provider Policies, fees and plans for payment);
- (2) part 9545.0405, subpart 3, item H (Provider Policies, educational and developmental activities available); and
- (3) part 9545.0415, subpart 4, (Daily Activity Plan or Assessment).

**Subp. 6. Disqualification factors.** An applicant or provider shall not be issued a license or the license shall be revoked, not renewed, or suspended if the applicant, provider, or any other person living in the day care residence or present during the hours children are in care, or working with children:

A. Is chemically dependent and the behavior has a negative effect on the ability of the provider to give care or is apparent during the hours children are in care. Chemical dependency means the inability to function physically or mentally in an effective manner because of the habitual abuse of a psychological or a physical dependency-producing drug, including alcohol. Recovering chemical dependents must have 12 months of verified abstinence.

B. Is mentally ill. Mental illness means the inability to interpret the environment realistically or the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; or which is listed in the International Classification of Diseases (ICD-9-CM) Ninth Revision (1980), code range 290.0-302.99, or 306-316, or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are available in the state law library.

C. Has had parental rights terminated on the basis of parental neglect or abuse.

D. Has had a conviction of, is awaiting trial for, has admitted to, or there is substantial evidence indicating an act of abuse, assault, incest, threats or acts of violence to persons of any age, battering, molesting, or any of the crimes listed in Minnesota Statutes, sections 609.18 to 609.21 and 609.221 to 609.375.

E. Has had a child placed in foster care within the past 12 months and the agency determines the reasons for placement reflect on the ability of the provider to give care. A license may not be denied if the primary reason for the placement was due to a physical illness of the parent, mental retardation of the child, a handicap of the child, or for the temporary care of an infant being relinquished for adoption.

F. Has had a child placed in residential treatment within the past 12 months for emotional disturbance or antisocial behavior and the agency determines that the reasons for the placement reflect on the ability of the provider to give care.

**Subp. 7. Variances.** An applicant or provider may request a variance from compliance with parts 9545.0315 to 9545.0445.

A. Request for a variance must comply with and be handled according to the following procedures.

(1) An applicant or provider must submit to the agency a written request for a variance. The request must include the following information:

- (a) the sections of parts 9545.0315 to 9545.0445 with which the applicant or provider cannot comply;
- (b) the reasons why the applicant or provider needs to depart from the specified sections or why compliance with the specified section would cause undue hardship;
- (c) the period of time, not to exceed one year, for which the applicant or provider requests a variance; and
- (d) the specific measures which the applicant or provider will take so the health, safety, and development of children in care is ensured if the variance is granted.

(2) An applicant or provider must submit to the agency written approval from a fire marshal of a variance request

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and the alternative measures identified to ensure the safety of children in care when a variance of the fire safety provisions in part 9545.0425 on physical environment is requested. These are part 9545.0425, subpart 4, on care on street floor level of exit discharge; subpart 5, on means of escape; subpart 6, on separations; subpart 7, on fire doors; subpart 8, on heating and venting systems; subpart 13, on locks and latches; subpart 16, on interior walls and ceilings; subpart 17, about extinguishers; subpart 18, on smoke detection systems; and subpart 19, on electrical services.

(3) An applicant or provider must submit to the agency written approval from a health official of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the health provisions in parts 9545.0435 on sanitation and health, and 9545.0445 on water, food, and nutrition is requested.

### B. The agency may request that the commissioner delegate to the county agency the authority to grant variances.

(1) An agency's request must be made in writing and include a procedure for processing variances and the name of the person designated by the agency to review requests for variances. If the proposed procedure is fair and efficient and conforms to the procedures and standards specified in this part, the commissioner shall issue a written delegation of authority to grant and deny variances. At least once a year, the department shall evaluate whether the agency is complying with its procedures and the standards in this subpart. If the agency is not complying with the procedures and standards, the commissioner shall terminate the agency's authority to grant and deny variances and notify the agency in writing of this action.

(2) If an agency, which has been delegated the authority to rule on requests for variances, receives a written request for a variance that the agency has the power to grant, the agency shall grant or deny the request and mail the written decision to the applicant or provider within 30 days after the request is received.

(3) If the agency has not been delegated the authority to rule on requests for variances, or if the request seeks variance of a rule part provision the agency does not have the authority to vary, the agency shall, within 15 days after the request is received, mail to the department a copy of the request and the agency's recommendation to approve, further investigate, or deny the request. The agency shall also mail a copy of its recommendation to the applicant or provider. The commissioner shall grant or deny a request for a variance within 30 days after the department receives the request from the agency.

(4) The agency may not grant variances to parts 9545.0315, on definitions; 9545.0325, on licensing purpose, applicability and exclusions; 9545.0335, on licensing process; 9545.0341, on negative licensing actions; 9545.0345, on agency records; 9545.0375, on reporting to the agency; 9545.0405, on behavior guidance and discipline; and 9545.0405, on admissions, provider records and reporting. If an applicant or provider seeks a variance from any of these parts, the request shall be transmitted to the department.

(5) The agency which has been delegated the authority to grant variances may grant a variance to the standards governing licensed capacity, child/adult ratios and age distribution restrictions set forth in parts 9545.0365 and 9545.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time such that the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time.

(6) A variance of the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9545.0365 and 9545.0367 in excess of those in subitem (5) may be granted only by the department.

### C. A variance may be granted if the following standards are met:

(1) For each section of the rule for which the applicant or provider seeks a variance, specific measures must be identified by the applicant or provider which will ensure the health, safety, and development of the children in care if the variance is granted.

(2) The applicant or provider must have verification that all applicable zoning, building, and fire safety laws, ordinances, and regulations are complied with at all times.

(3) Any variance of the fire safety provisions in part 9545.0425 on physical environment must not be granted unless the provider or applicant has secured approval from a fire marshal of the variance and alternative measures identified to ensure the safety of children in care.

(4) Any variance of the provisions in parts 9545.0435, on sanitation and health and 9545.0445, on water, food and nutrition must not be varied unless the provider or applicant has secured approval from a health official of the variance and alternative measures identified to ensure the health of children in care.

(5) When reviewing a variance request of parts 9545.0365 and 9545.0367, the department will assess whether the applicant or provider has shown that undue hardship would occur from strict compliance; whether alternative care for the

children is available within the county; and whether the alternative methods identified by the applicant or provider will meet the health, safety, and development of the children in care.

(6) A variance will be granted only if the requirements for a provisional license, as provided for in part 9545.0335, subpart 5, are not met.

(7) The period of time for which a variance is granted must not exceed one year.

**Subp. 8. License terms.** The license, whether regular or provisional, must indicate:

- A. the number and age groupings of children who may receive care at any one time;
- B. the expiration date of the license and location of the residence;
- C. the name and address of the provider; and
- D. that the provider is licensed under parts 9545.0315 to 9545.0445 of Minnesota Rules.

**Subp. 9. Posting license.** The provider shall post the license in the residence in a prominent place.

**Subp. 10. Change in license terms.** The following shall apply to changes in the terms of a license.

A. A new department application form must be submitted by the provider and a full licensing study as specified in part 9545.0335, subpart 2, must be completed when the provider wants to move the day care operation to a new residence or the provider wants to change to group family day care from family day care.

B. A new department application form indicating the changes in the ages and numbers of children in care must be completed when the provider wants to change to family day care from group family day care.

C. A new department application form and any necessary agency studies shall be completed when the provider remarries or changes his or her name.

**Subp. 11. Number of licenses.** No provider shall be issued a license to operate more than one day care residence.

**Subp. 12. Access to residence.** The provider shall give authorized representatives of the commissioner or agency access to the residence during the hours of operation to determine whether the residence complies with the standards of parts 9545.0315 to 9545.0445.

**Subp. 13. License renewal.** The following provisions must be followed by the agency when reviewing a license for renewal.

A. The agency must conduct a relicensing study of the provider and residence to determine continued compliance with parts 9545.0315 to 9545.0445 at least once every 12 months for as long as the provider maintains a license.

B. The agency must solicit two or more parent evaluations of a provider's care, residence, and program prior to renewal of a license. The evaluations and all complaints received during the period of licensure must be considered by the agency in determining continued compliance with parts 9545.0315 to 9545.0445.

**Subp. 14. Return of license to commissioner.** When a provider stops giving care, or if a license is revoked, suspended, or not renewed, the provider shall return the license to the commissioner and stop all advertising.

**Subp. 15. Unlicensed facilities.** When a facility required to be licensed under parts 9545.0315 to 9545.0445 is brought to the attention of the agency, a verification of its licensed status must be made by the agency within five days.

A. If the agency finds that the facility is not licensed, the agency shall contact the person giving care in the facility and inform him or her of the licensing requirements specified in Minnesota Statutes, sections 245.781 to 245.812 and 245.791, and the procedure for obtaining a license.

B. If no further communication is received from the unlicensed facility within 30 days of contact, a representative of the agency shall visit the facility or ensure that a surveillance is completed. If the facility is still operating and requires licensure and no attempt has been made to obtain a license, then the attorney with jurisdiction to bring charges for misdemeanors shall be notified immediately so legal action may be pursued.

#### **9545.0341 NEGATIVE LICENSING ACTIONS.**

**Subpart 1. Complaints.** Every complaint, including anonymous ones, concerning violations of parts 9545.0315 to

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9545.0445, shall be investigated by the agency within 14 days. All complaints substantiated by the agency about a provider licensed under parts 9545.0315 to 9545.0445 shall be recorded in the agency file on that provider.

**Subp. 2. Definitions.** For the purposes of this subpart, negative licensing actions shall mean denial of application for licensure, revocation, nonrenewal, probation, suspension, or immediate suspension of an existing license.

**Subp. 3. Procedures.** In accordance with Minnesota Statutes, section 245.801, failure to comply with parts 9545.0315 to 9545.0445 or the terms of licensure is grounds for a negative licensing action. If the agency recommends a negative licensing action, the agency shall notify the department and the department shall determine if the standards in parts 9545.0315 to 9545.0445 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall notify the applicant or provider by certified mail unless personal service is required by subpart 9. The notice must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed action. The notice must inform the applicant or provider of the right to appeal the decision within the specified time period. The applicant or provider shall have an opportunity for a hearing in accordance with Minnesota Statutes, sections 14.57 to 14.70.

**Subp. 4. Denial.** If the commissioner denies an application for licensure, the applicant must be informed of the right to appeal the decision within 20 days.

**Subp. 5. Revocation.** If the commissioner revokes a license, the provider must be informed of the right to appeal the decision within ten days.

**Subp. 6. Nonrenewal.** If the commissioner refuses to renew a license, the provider must be informed of the right to appeal the decision within 20 days.

**Subp. 7. Probation.** If the commissioner makes a license probationary, the provider must be informed of the right to appeal the decision within ten days.

**Subp. 8. Suspension.** If the commissioner suspends a license, the provider must be informed of the right to appeal the decision within ten days.

**Subp. 9. Immediate suspension.** If the commissioner finds that the health, safety, or rights of the children in care are in imminent danger, the commissioner shall immediately suspend the license. The provider shall be informed by personal service and informed of the right to appeal the decision within five days. The appeal does not stay the decision of the commissioner to immediately suspend the license.

**Subp. 10. Notice to parents of negative action.** As soon as the county recommends revocation, suspension, probation, or immediate suspension action, a notice of the circumstances for the action, but not the identity of a child, other than the parent's own, shall be sent by the agency to the parents of children in care. If a license is not immediately suspended and the provider remains in operation and appeals the decision of the commissioner, the provider must give a copy of the Notice of and Order for Hearing on the appeal to the parents of any child currently enrolled or seeking admission to the residence.

**Subp. 11. Reapplication after revocation or nonrenewal.** A provider whose license has been revoked or not renewed because of noncompliance with applicable laws or rules, shall not be granted a new license for five years following revocation or nonrenewal. The department may grant a variance to this provision and issue a license after two years following revocation or nonrenewal if the applicant then substantially meets all provisions of parts 9545.0315 to 9545.0445. When the commissioner initiates a negative licensing action against a provider for any of the grounds specified in part 9545.0335, subpart 6, the provider may not voluntarily withdraw his or her license without written assurance from the provider that he or she is voluntarily accepting revocation and will not reapply for two years.

### 9545.0345 AGENCY RECORDS.

**Subpart 1. Agency records.** The agency shall maintain the following records for each provider:

- A. A copy of the completed licensing application form signed by the applicant and the agency.
- B. The physical health reports on any adult giving care in the residence on a regular basis.
- C. A completed home safety check list and any written reports from the fire marshal, health officer, or building official.
- D. The agency's initial and any renewal licensing studies.
- E. Reports and documents from persons who have evaluated the applicant as a potential day care provider. If the applicant has been licensed through another jurisdiction, the agency shall also request and keep a reference from the licensing authority in that jurisdiction.
- F. The annual relicensing evaluation by the agency of the provider which covers services provided by both the provider and agency. Any comments of the provider about the evaluation by the agency shall also be noted in the agency record.
- G. Documentation of any variances of parts 9545.0315 to 9545.0445.

H. A record of training completed by the provider, and all other regular caregivers.

I. Results of well water tests as specified in part 9545.0445.

J. Arrest, conviction, or criminal history records from the Minnesota Bureau of Criminal Apprehension, county attorney and sheriff, local police department, national criminal history record repositories, other public and private social service agencies, and juvenile, municipal, and district courts on any person living or working in the day care residence.

**Subp. 2. Data privacy.** The agency or department shall have access to provider records on children in care to determine compliance with parts 9545.0315 to 9545.0445. The provider shall not disclose any records on children in care to any persons other than the parents of the child, the agency, the department, the persons required by parts 9545.0375, subpart 1, and medical or public safety persons for use in emergencies if information is necessary to protect the health and safety of the child.

#### **9545.0355 CAREGIVER QUALIFICATIONS.**

**Subpart 1. Age.** An applicant for family day care shall be an adult at the time of licensure.

**Subp. 2. Health.** An adult caregiver shall be physically able to care for children.

A. The applicant shall supply documentation to the agency with the license application that the applicant has had a physical examination from a licensed physician within 12 months prior to initial licensure and is physically able to care for children.

B. The applicant shall supply documentation to the agency with the license application that all adult caregivers who are assisting with care have had a physical examination from a licensed physician within 12 months prior to employment within the residence and are physically able to care for children.

**Subp. 3. Group family day care.** A group family day care applicant shall meet all the requirements listed in subparts 1 and 2 for family day care. A group family day care applicant shall also meet one of the following:

A. a minimum of two years' substantial compliance with parts 9545.0315 to 9545.0445 as a licensed family day care provider; or

B. a minimum of one year's substantial compliance with parts 9545.0315 to 9545.0445 as a licensed family day care provider; and

(1) completion of a two-year child development of early childhood education associate or certificate program at an accredited college, university, or vocational-technical institute; or

(2) completion of an accredited competency-based family day care training and assessment program offered by an accredited institute; or

(3) a current Level I or Level II prekindergarten license from the State Department of Education; or

(4) a kindergarten through sixth grade teaching degree from an accredited university or college; or

(5) documentation of a minimum of one year's satisfactory experience as a full-time, direct caregiver at a state-licensed group day care center.

C. "Accredited" for the purposes of this subpart, means a postsecondary institution or area vocational-technical institution, recognized and accredited by the North Central Association of Schools and Colleges, its regional counterparts, the National Accreditation Council, or Minnesota Commission on Higher Education.

**Subp. 4. Day care insurance coverage.** A provider shall have a certificate of insurance. Insurance coverage shall include:

A. general liability coverage for bodily injury in the amount of at least \$100,000 per person and \$300,000 per occurrence; and

B. motor vehicle accident insurance coverage of at least \$100,000 per person and \$300,000 per occurrence when transportation is provided by the provider.

#### **9545.0365 LICENSED CAPACITY, CHILD/ADULT RATIOS, AGE DISTRIBUTION RESTRICTIONS.**

**Subpart 1. Capacity limits.** Family day care and group family day care providers shall comply with part 9545.0367, which

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limits the total number of children and the number of preschoolers, toddlers, and infants who may be in care at any one time, and provides for the number of adults who are required to be present.

A. Providers shall be licensed for the total number of children, 12 years of age or younger, who will be present in the residence at any one time. The licensed capacity must include all children of any caregiver when the children are present in the residence.

B. Within the licensed capacity, the age distribution restrictions specify the maximum number of children under first grade, infants, and toddlers who may be in care at any one time.

**Subp. 2. Specialized infant and toddler group family day care.** In specialized infant and toddler group family day care, the caregivers must be adults.

**Subp. 3. Newborn care.** When a newborn is in care and only one adult caregiver is present, the newborn shall be the only child under 12 months of age and the provider shall not care for more than two other children at the same time unless another adult caregiver is also present or the newborn is the provider's own.

**Subp. 4. Group family day care.** In group family day care, whenever more than ten children are in care, two adults, or one adult and a helper, must be present at all times. A helper may be used in place of a second adult caregiver when there is no more than one infant or toddler present.

**Subp. 5. Other employment.** The provider shall not engage in other employment during the hours in which care is being provided.

### 9545.0367 CHILD/ADULT RATIOS; AGE DISTRIBUTION RESTRICTIONS.

#### A. Family Day Care:

Child/Adult Ratio		Age Restrictions	
Licensed Capacity	Adults	Total children under first grade	Total infants and toddlers
10	1	6	Of the total children under first grade, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.

#### B. Group Family Day Care:

(1) 10	1	6	Of the total children under first grade, no more than 3 shall be infants and toddlers. Of this total, no more than 1 shall be an infant.
(2) 12	1	10	Of the total children under first grade, there shall be no more than 1 infant or toddler.
(3) 14	2 A helper may be used in place of a second adult caregiver when there is no more than 1 infant or toddler present.	10	Of the total children under first grade, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.

#### C. Specialized Infant and Toddler Group Family Day Care:

7	2 Both caregivers shall be adults.	7	Of the total children, no more than 3 shall be infants.
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### 9545.0375 REPORTING TO AGENCY.

**Subpart 1. Abuse; neglect reporting.** All caregivers shall report any suspected physical abuse, sexual abuse, or neglect of a child to the agency or police as required by Minnesota Statutes, section 626.556. If a caregiver has reasonable cause to



believe a child has died as a result of physical or sexual abuse or neglect, the caregiver shall report this information to the county medical examiner or coroner.

**Subp. 2. Other reporting.** The provider shall inform the agency:

A. within 15 days of any change in the composition of the family or membership of the household within the day care residence;

B. within 15 days of a new child enrolled in day care or when a child stops receiving day care at the residence;

C. immediately of any suspected case of physical or sexual abuse or neglect;

D. within 48 hours after the occurrence of a fire that requires the service of a fire department;

E. immediately after the occurrence of any serious injury or death of a child within the day care residence. A serious injury is one that is treated by a physician; and

F. within 24 hours of the onset of any repairs or improvements to the residence which require a building permit.

**9545.0385 DAY CARE TRAINING.**

**Subpart 1. Agency training role.** The agency shall ensure that a minimum of 24 hours of day care training is available within the provider's county or within 50 miles of a provider's residence annually.

A. Training must be available on weekends, evenings, or at times convenient to the majority of providers who reside in the county.

B. The agency must submit a plan to the department annually of 24 hours of training that will be available to all caregivers.

C. The agency shall ensure distribution of training information to each provider who operates a residence in the county of the agency at least once a year.

**Subp. 2. Training subjects.** Training subjects shall be selected from the following areas:

A. child development;

B. child abuse;

C. communication skills;

D. communicable disease prevention and control;

E. parent and provider relationships;

F. special needs referrals;

G. community services and resources for children;

H. methods of guiding behavior or discipline;

I. constructive problem solving;

J. first aid and cardiopulmonary resuscitation;

K. home and fire safety;

L. learning activities;

M. healthy environments for children;

N. observation and assessment of children's needs;

O. care of bilingual or non-English-speaking children;

P. care of special needs or gifted children;

Q. business management skills;

R. parenting skills; and

S. nutrition.

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**Subp. 3. Family day care training.** All family day care providers shall participate in a minimum of six hours of day care training and six hours of Minnesota Department of Health-approved first aid training within one year after the date of initial licensure, and a minimum of six hours of day care training every year after as long as the license is maintained. No more than half of the annual training requirement shall relate to day care administration, finances, and records. Previous training of up to six of the required 12 hours taken during the year preceding initial licensing may be used to meet the training requirement of the first year of licensure.

**Subp. 4. Group family day care training.** Group family day care providers shall participate in a minimum of 12 hours of day care training each year as long as the license is maintained. No more than half of the annual training requirement shall relate to day care administration, finances, or records.

**Subp. 5. Adult caregiver and helper training.** Each adult caregiver giving care in the residence on a regular basis shall participate in a minimum of 12 hours of training within one year after the date of initial employment, and a minimum of six hours of training every year after as long as they are employed. Helpers shall complete six hours of training within one year after the date of initial employment. Training must not relate to day care administration, finances, or records.

### 9545.0395 BEHAVIOR GUIDANCE; DISCIPLINE.

**Subpart 1. Methods.** Caregivers shall give each child guidance and discipline which helps the child acquire a positive self-concept, self-control, and teaches acceptable behavior.

A. The provider shall discuss methods of discipline with parents at the time of admission and the parent's standards shall be considered by the provider within the context of this part when guiding the behavior of a child.

B. Discipline and behavior guidance used by caregivers must be constructive, positive, and suited to the age of the child. Methods of intervention, guidance, and redirection must be used.

**Subp. 2. Corporal punishment.** When guiding behavior in children, caregivers shall not use the following methods of discipline:

A. No child shall be subject to corporal punishment or emotional abuse. "Corporal punishment" means the nonaccidental infliction of physical pain on a child by a caregiver. Corporal punishment includes, but is not limited to, rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, and spanking. "Emotional abuse" means the infliction of verbal or psychological abuse on a child by a caregiver. Emotional abuse includes, but is not limited to, name calling, ostracism, shaming, derogatory remarks about the child or child's family, and threats which threaten, humiliate, or frighten the child.

B. Food, light, warmth, clothing, and medical care shall not be withheld from the child.

C. Discipline and punishment shall not be delegated to another child.

**Subp. 3. Isolation.** The use of isolation to guide behavior must be appropriate to the age of the child and conform to the following methods.

A. An infant shall not be isolated for disciplinary reasons.

B. A toddler shall not be isolated for a period longer than three minutes.

C. Isolation must not exceed a period of ten minutes for preschool and school-age children.

D. Isolation must be in an area or separate room that is well-lighted, free from hazards, ventilated, and open to the view of caregivers.

E. No child shall be isolated in a closet or locked room.

**Subp. 4. Toilet training.** Toilet training must be undertaken when appropriate to the child's age and stage of development.

A. The provider and parent shall cooperatively develop a plan for the timing and method of training.

B. No child shall be punished for toilet accidents.

C. A child shall be offered opportunity for toileting.

### 9545.0405 ADMISSIONS; PROVIDER RECORDS; REPORTING.

**Subpart 1. Cooperating with parents.** When admitting a child to day care, the provider and parents shall discuss child rearing, sleeping, feeding, and discipline practices essential for the care of the child. The provider shall keep parents informed of the child's progress and development.

**Subp. 2. Rule summary for parents.** A descriptive summary of parts 9545.0315 to 9545.0455 shall be distributed to the parent by the provider at the time a child is admitted to care. The summary shall be provided by the department to the agency for distribution to the provider. The summary shall:

A. state that parts 9545.0315 to 9545.0445 of Minnesota Rules govern the licensing of day care residences;

B. specify the rule part headings contained in parts 9545.0315 to 9545.0445; and

C. state that a complete copy of parts 9545.0315 to 9545.0445 may be seen at the day care residence, the agency, department, or state law library, or purchased from the State Register and Public Documents Division, Department of Administration, State of Minnesota, 117 University Avenue, St. Paul, MN 55155.

**Subp. 3. Provider policies.** The provider shall have the following written information available for discussion with parents or the agency:

A. the age and numbers of children in care in the residence;

B. the hours and days of operation;

C. meals and snacks to be served;

D. labeling requirements for food brought from the child's home;

E. sleeping and rest arrangements;

F. nondiscrimination practices to comply with subpart 6;

G. policies for the care of ill children, disease notification procedures, immunizations, and medicine permission policies;

H. educational and development activities available;

I. emergency, fire, and storm plans and the monthly fire drill log;

J. seat belt and transportation plans and field trip and transportation permission requirements;

K. fees and plans for payment;

L. termination and notice procedures;

M. plans for a helper and substitute for emergencies, vacations, or holidays;

N. methods of discipline;

O. the presence of pets in the residence; and

P. a complete copy of parts 9545.0315 to 9545.0445.

**Subp. 4. Records for each child.** The provider shall obtain the information required by items A to C from parents prior to admission of a child. The provider shall keep this information up-to-date and on file for each child.

A. The admission and arrangements form of the department must be on file in the provider's home and contain the following information:

(1) Name and birthdate of the child.

(2) Full name of parents.

(3) Home address, work address, and telephone numbers where parents may be reached.

(4) Name, address, and telephone number of physician, dentist, and hospital to be used for emergencies when parents cannot be reached.

(5) Name, address, and telephone number of persons to be notified in case of emergency, when parents cannot be reached.

(6) Names of all persons authorized to remove the child from the residence.

(7) Enrollment dates.

(8) Financial arrangements.

B. Special instructions from the parent shall be obtained in writing and followed about toilet training, eating, sleeping or napping arrangements, allergies, communication, discipline, comforting, and any health problems.

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C. The caregiver shall disregard parents' standards or instructions that are contrary to or violate any provisions of parts 9545.0315 to 9545.0445. The provider must notify the parents of the reasons why their instructions cannot be followed.

D. Immunization records must be kept in accordance with Minnesota Statutes, section 123.70. The provider shall request, update, and keep on file the dates of immunizations received by a child in regular attendance at the residence as follows:

- (1) for an infant, every six months;
- (2) for a toddler, annually;
- (3) for a preschool child, every 18 months; and
- (4) for a school-age child, every three years.

E. Signed written consent must be obtained in advance from the parent so the provider can obtain emergency medical care or treatment. The consent may be used if the parent cannot be reached or is delayed in arriving.

F. Written permission to transport children must be obtained from parents if the provider will be transporting a child.

G. A provider shall release a child from care only to a parent or a person authorized by the parent.

**Subp. 5. Handicapped children.** For the handicapped child requiring special therapy, program, or behavior guidance, the parents, physician, or therapist shall provide and the provider shall follow written instructions for any special needs. "Handicapped child" means a child who has been determined by a physician, a school district multi-disciplinary team, or other person licensed to identify handicapping conditions, to have a hearing, mental, neurological, developmental, serious emotional, social, learning, speech or language, physical, or visual impairment.

**Subp. 6. Nondiscrimination.** No caregiver shall discriminate in relation to admissions on the basis of race, creed, color, national origin, religion, or sex.

### 9545.0415 CHILD CARE DEVELOPMENT PROGRAM.

**Subpart 1. Program content.** Day care activities must provide for the physical, intellectual, emotional, and social development of the child. The environment must facilitate the implementation of the activities. Program activities must:

- A. be scheduled indoors and outdoors, weather permitting;
- B. be appropriate to the developmental stage and age of the child;
- C. include active and quiet activity;
- D. provider-directed and child-initiated activity;
- E. further a positive self-concept and independent behavior; and
- F. suit the linguistic, ethnic, and cultural background of the child.

**Subp. 2. Definitions.** For the purposes of this part, the following terms have the meanings given them.

A. "Cognitives" means equipment designed to enhance intellectual development and stimulate thought processes, such as games and toys which use number, letter, shape, size, and color concepts.

B. "Creative dramatic play equipment" means equipment which can be used to design a setting or space that stimulates the child's imagination and encourages role playing such as dress up clothes, large or miniature play sets, and figures.

C. "Large muscle equipment" means equipment designed to enhance large muscle development and coordination such as large boxes and pillows, playground equipment, riding toys, climbers, or rocking boats.

D. "Manipulatives" means equipment designed to enhance fine motor development, creativity, and coordination such as pegs and pegboards, blocks, puzzles, beads and strings, and interlocking plastic or wooden forms.

E. "Sand, grain, or water play and exploration equipment" means equipment and accessories such as a washtub, sandbox, or dishpan and funnels, measuring cups, or strainers which encourage learning through exploration and experimentation with water, sand, or ground grains.

F. "Sensory stimulation items" means items of different shape, color, and texture which stimulate the child's senses. Examples of sensory stimulation items are swatches of different textures of cloth, different shaped pieces of wood, and blocks of different colors.

**Subp. 3. Equipment.** The provider must have the equipment specified in this subpart in adequate quantities for the number and ages of children in care. Toys and equipment may be new, used, commercial, or homemade, as long as they are age category, activity appropriate, and in good repair.

**Subp. 4. Activity plans or assessment.** The provider must have written, posted activity plans and a schedule for each age group of children in care which provides for the physical, social, intellectual, or emotional development of the children; or satisfactory compliance with the department's child care assessment instrument. Provider activity plans and schedules must be retained for six months.

**Subp. 5. Newborn or infant activities.** The provider shall provide the following daily activities for newborns or infants.

A. An infant or newborn must be held during bottle feedings until the child can hold its own bottle. Bottles must not be propped.

B. An infant or newborn must be shown affection by rocking, cuddling, hugging, and playing with the child.

C. An infant or newborn's attempts to communicate must be responded to. Time must be spent talking to and listening to a child; time must be spent imitating each child's actions and sounds. There must be verbal interaction with an infant and newborn during feeding, diapering, washing, and changing clothes. Time must be spent naming objects like body parts, toys, or household objects.

D. An infant or newborn shall have freedom of movement during a large part of the waking day. A child shall be encouraged to explore and play in safety, indoors and outdoors, if the weather is suitable. The noncreeping child shall spend part of each day on a washable rug or blanket. The creeping infant or newborn shall have freedom to explore outside of the crib, infant seat, or playpen. A crib, infant seat, or playpen must be used only for sleeping, resting, or when needed for safety. The playpen must be placed where the infant can watch others when awake.

E. An infant or newborn must be given the opportunity to stimulate the senses. A variety of activities and objects to see, touch, feel, smell, hear, and taste must be provided.

F. An infant or newborn shall be provided with activities that develop the child's manipulative and fine motor skills, self-awareness, and social responsiveness.

**Subp. 6. Newborn or infant equipment.** The following minimum equipment is required for infants or newborns:

A. an infant seat or high chair, one per child;

B. a crib, playpen, or portable crib, and waterproof mattress or pad, one per child;

C. books, two per child;

D. large muscle items such as cardboard boxes to get into, walkers or jumpers, two per child;

E. manipulatives such as stacking and nesting items, two per child;

F. cognitives which are washable and small enough to grasp but too large to swallow, two per child;

G. music equipment such as a radio, phonograph, music box, tape recorder, one per residence with at least ten selections;

H. noise-making toys like rattles, two per child;

I. mobiles, posters, pictures of faces, colorful objects, and pictures to view, two per child; and

J. sensory stimulation items (tactile and soft), two per child.

**Subp. 7. Toddler activities.** The provider shall provide each toddler with activities that foster physical, mental, emotional, and social growth.

A. The following activities must be done daily:

(1) The toddler shall be provided with freedom of movement. A toddler shall be encouraged to explore and play in safety, indoors and outdoors, if the weather permits. The toddler shall have freedom to explore outside the playpen and be provided with activities like climbing, riding, running, jumping, and balancing to stimulate large muscle development.

(2) The provider shall talk, listen to, and interact with a toddler during diapering, feeding, and changing clothes and show affection to the child by rocking, hugging, and cuddling.

(3) The provider shall assist the child in developing independence and self-esteem, learn to wash his hands before meals and after toileting, dress himself, and pick up toys.

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B. The following activities shall be done daily except when special circumstances such as field trips, illness, or emergencies occur.

(1) The provider shall provide activities which develop the child's small muscles and manipulative skills such as stringing beads, puzzles, stacking blocks, or playing with leaves, twigs, or other small outdoor items.

(2) The provider shall develop and stimulate learning by reading stories to the child or looking at picture books together.

(3) The provider shall provide activities that stimulate the senses (smelling flowers); creativity (sand and water play); learning (throwing and kicking balls, recognizing colors, shapes, animals, finger play); and social development (dancing, group singing).

**Subp. 8. Toddler equipment.** The following minimum equipment is required for toddler activities:

A. crib, cot, bed, sofa, or sleeping bag with waterproof cover, one per child;

B. art and craft supplies, tempera or finger paints, paper, paste, collage materials, paint brushes, crayons, blunt scissors, aprons, smocks, as needed to carry out activities;

C. books, two per child;

D. manipulatives larger than one inch in diameter such as string or pop beads, blocks and building sets using plastic or wooden pieces, one set per child;

E. creative dramatic play equipment, two per child;

F. large muscle equipment, two per child;

G. large muscle accessories such as balls, pull toys, trucks, two per child;

H. music source such as radio, tape recorder, record player, one per residence with at least ten selections;

I. rhythm band instruments, one per child;

J. mobiles, pictures, objects to view, as needed to provide a pleasant environment and sensory stimulation;

K. cognitives such as puzzles and shape sorters, two per child;

L. sensory stimulation items, two per child;

M. washable, soft toys, dolls and doll clothes, one per child;

N. sand, water, or grain play and exploration equipment and accessories, play dough or clay, one piece of equipment and two accessories per residence; and

O. child-sized tables and chairs, one chair per child.

**Subp. 9. Preschooler activities.** The provider shall provide each preschooler with daily activities that foster physical, mental, emotional, and social growth.

A. Each of the following activities must be done daily. The caregiver shall:

(1) interact and show affection toward each child by talking, listening, and hugging. Conversation must be encouraged between the child and other children and adults.

(2) provide opportunity to play near and with other children; provide time and space for individual and group play; allow for quiet times to talk or rest; allow for unplanned time and individual play time.

(3) foster understanding of personal and peer feelings and actions and allow for the constructive release of feelings and anger through discussion or therapeutic play activities such as clay, drawing, water, or dramatic play.

(4) give assistance in toileting and provide time to carry out self-help skills such as dressing, washing, toileting, and setting the table; and provide opportunity to be responsible for activities like putting away play equipment and helping around the house.

(5) provide opportunity for each child to make decisions about daily activities and to take credit for the consequences of decisions.

B. The following activities shall be done daily except when special circumstances such as field trips, illness, or emergencies occur. The caregiver shall:

(1) provide time and areas for large muscle play like running, jumping, and riding tricycles; provide for release of energy through activities such as climbing, kicking objects, bouncing or throwing games, sledding, and skating.

(2) provide learning, small muscle, manipulative, creative or sensory activities such as games, puzzles, coloring, discussion of the days, colors, seasons, sizes of objects, labeling and classification of objects, letters, numbers, finger plays, first aid and safety training.

(3) read stories, look at children's books together, and talk about new words and ideas.

**Subp. 10. Preschooler equipment.** The following minimum equipment is required for preschooler activities:

- A. bed, cot, sofa, or sleeping bag, one per child;
- B. art and craft supplies, tempera or finger paints, paper, crayons, paste, scissors, collage materials, aprons, smocks, glue, as needed to carry out activities;
- C. books and magazines, two per child;
- D. manipulative sets, three per residence;
- E. creative, dramatic play items, three per residence;
- F. balancing items such as a board or line on the floor, one per residence;
- G. large muscle equipment such as wagons, sleds, tricycles, climbers, tunnels, or slides, one per child;
- H. large muscle accessories such as balls, hoops, bean bags, four per residence;
- I. music source such as radio, tape recorder, record player, one per residence with at least ten selections;
- J. cognitives such as puzzles, shape sorters, or number and letter games, two per child;
- K. pictures, as needed at eye level to provide a pleasant environment and sensory stimulation;
- L. rhythm instruments, one per child;
- M. science materials such as outdoor thermometers, bug boxes, magnets, or magnifying glasses, two per residence;
- N. sand, grain, water play and exploration equipment and accessories, clay, or play dough, one piece of equipment and two accessories per residence;
- O. sensory stimulation items, two per child;
- P. washable, soft toys, dolls, one per child;
- Q. social board or card games, three per residence; and
- R. child-sized tables and chairs, one chair per child.

**Subp. 11. School-age activities.** The provider shall provide each school-age child with activities that foster physical, mental, emotional, and social growth.

A. The following activities shall be done daily with school-age children. The provider shall:

- (1) provide opportunities for individual discussion about the happenings of the day and planning for activities considering parents' instructions;
- (2) provide space and opportunity for games, activities, or sports using the whole body, outdoors, weather permitting;
- (3) provide space and opportunity for individual rest and quiet time;
- (4) allow increased freedom as the child demonstrates increased responsibility.

B. The following activities shall be done weekly with school-age children. Written permission must be obtained from the parents to allow school-age children in care to participate in activities outside the residence, such as special interest groups, clubs, biking with friends, or to attend recreation programs. The provider shall:

- (1) provide opportunities for group experiences with other children;
- (2) provide opportunities to develop or expand self-help skills or real-life experiences;
- (3) provide opportunities for creative and dramatic activity, arts and crafts, or field trips.

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**Subp. 12. School-age equipment.** The following minimum equipment is required for school-age activities:

- A. books and magazines, two per child;
- B. toys and equipment required for preschool children;
- C. board and card games, strategy and skill games designed for the school-age child, four per residence; and
- D. construction materials and sets using interlocking plastic, metal, or wooden pieces designed for the school-age child, two per residence.

### 9545.0425 PHYSICAL ENVIRONMENT.

**Subpart 1. Indoor space.** The licensed capacity of the day care residence must be limited by the amount of useable indoor space available to children. A minimum of 35 square feet of useable indoor space is required per child.

A. Useable indoor space is the floor space used for the children's program and activities during the day. Bathrooms and space occupied by major appliances and adult furniture may not be counted as useable indoor space.

B. Useable indoor space may include a basement if it has been inspected by a fire marshal, is free of hazard, and meets the minimum exiting standards specified in subpart 5.

**Subp. 2. Outdoor play space.** There must be an outdoor play space of at least 50 square feet per child in attendance, adjacent to the residence, for regular use, or a park, playground, or play space within 1,500 feet of the residence. On-site supervision must be provided by a caregiver for children of less than school age when play space is not adjacent to the residence. Enclosure may be required by the agency to provide protection from rail, traffic, water, or machinery hazard. The area must be free of litter, rubbish, flammable or toxic materials, water hazards, machinery, vehicles, human or animal wastes, and sewage contaminants.

**Subp. 3. Water hazards.** Swimming and wading pools, fish ponds, irrigation ditches, or other bodies of water on the site of the residence must be inaccessible to children except during periods of supervised use. Wading pools must be kept clean. When children use a public swimming pool or beach, a certified water safety instructor shall be present. Any public swimming pool used by children must meet the requirements of the local department of public health.

**Subp. 4. Care on street floor level of exit discharge.** In group family day care, whenever an infant is present and there is only one adult, the infant shall be housed on a floor or level with an exit door or stairway leading directly to the finished surface of the ground, paving, or sidewalk unless the adult is on the same level as the infant.

**Subp. 5. Means of escape.** On each level of the residence used by children, there must be two means of escape. One means of escape must be a stairway or door leading to the floor of exit discharge. The other must be a door or window leading directly outside. The window must be openable without special knowledge. It must have a clear opening of not less than 5.7 square feet and have a minimum clear opening dimension of 20 inches wide and 24 inches high. The window must be within 48 inches from the floor. If the distance from the floor to the window is more than 24 inches, a permanently-positioned platform must be located not more than 24 inches under the window.

**Subp. 6. Separations.** Day care residences with an attached garage must have a 1 $\frac{3}{8}$  inch solid core door, or door with a fire protection rating of 20 minutes and a separation wall consisting of half-inch thick gypsum board or its equivalent on the garage side between the residence and garage.

**Subp. 7. Fire doors.** For group family day care homes, a 1 $\frac{3}{8}$  inch solid core door or a door and frame with at least a 20-minute fire protection rating, must be provided whenever more than two levels of the residence are connected. These doors must be equipped with self-closing devices.

**Subp. 8. Heating and venting systems.** The following heating and venting guidelines must be met:

- A. Stove and heater locations must not block escape in case of a fire.
- B. Gas, coal, wood, kerosene, or oil heaters must be vented to the outside in accordance with the State Building Code.
- C. Combustible items must not be located within 36 inches of the furnace or other heating sources.
- D. Whenever in use, fireplaces, woodburning stoves, solid fuel appliances, space heaters, steam radiators, and other potentially hot surfaces, such as steam pipes, must be protected by guards to prevent burns. All fireplaces, woodburning stoves, space heaters, steam radiators, and furnaces must be installed according to the State Building Code.
- E. The furnace, hot water heater, and workshop area must be inaccessible to children. Separation may be by a door, partition, or gate. There must be allowance for air circulation to the furnace.
- F. Ventilation of useable space must meet the requirements of the State Building Code. Outside doors and windows used for ventilation in summer months must be screened when biting insects are prevalent.



**Subp. 9. Temperature.** A minimum temperature of 68 degrees Fahrenheit must be maintained in indoor areas used by children.

**Subp. 10. Sleeping space.** There must be a safe, comfortable sleeping space for each child under school age. A crib, portable crib, or playpen with waterproof mattress or pad must be provided for each infant and toddler in care. The equipment must be of safe and sturdy construction which conforms to volume 16, parts 1508 to 1508.7 and parts 1509 to 1509.9 of the Code of Federal Regulations, its successor, or have a bar, mesh, or rail pattern such that a 2 $\frac{3}{4}$  inch diameter sphere cannot pass through.

**Subp. 11. Stairways.** All stairways must meet the following conditions.

A. Stairways of three or more steps must have handrails.

B. The area between the handrail and stair tread must be enclosed with a protective guardrail not less than 42 inches high and with a rail or pattern such that a 4 $\frac{1}{2}$ -inch diameter sphere cannot pass through, on stairways of three or more steps used by children. The back of the stair risers must be enclosed.

C. Gates or barriers must be used when children between the ages of 6 and 18 months are in care.

D. Stairways must be well-lighted, in good repair, and free of clutter and obstructions.

**Subp. 12. Decks.** Decks, balconies, or lofts used by children more than 24 inches above the ground or floor must be surrounded by a protective guardrail not less than 42 inches high, and have a rail or pattern such that a 4 $\frac{1}{2}$ -inch diameter sphere cannot pass through. Decks must be constructed in accordance with the State Building Code. Wooden decks must be free of splinters and coated with wood preservative, paint, or constructed with treated wood.

**Subp. 13. Locks and latches.** Door locks and latches must meet the following guidelines:

A. a closet door latch must be made so that children can open the door from inside the closet;

B. every bathroom door lock must permit opening of the locked door from the outside and the opening device must be readily accessible to all caregivers; and

C. double cylinder (key required both sides) locks on exit doors must be unlocked at all times children are in care.

**Subp. 14. Sewage disposal.** Day care residences must have toilet facilities and sewage disposal systems that conform to the State Building Code or local septic system ordinances. The toilets must flush thoroughly. Outdoor toilets are permissible when local ordinances allow.

**Subp. 15. Construction, remodeling.** During construction or remodeling, children shall not have access to dangerous construction or remodeling areas within or around the residence.

**Subp. 16. Interior walls and ceilings.** The interior walls and ceilings within the residence, as well as corridors, stairways, and lobbies must have a 200 flame spread rating.

**Subp. 17. Extinguishers.** A portable, operational, multi-purpose, dry chemical fire extinguisher with a 2 A 10 BC rating must be maintained in the kitchen and cooking areas of the residence at all times. All caregivers shall know how to use the fire extinguisher.

**Subp. 18. Smoke detection systems.** Smoke detectors that have been approved by the Underwriter Laboratory must be properly installed and maintained on all levels where children are in care.

**Subp. 19. Electrical services.** The following electrical guidelines must be met:

A. all electric receptacles accessible to children under first grade must be tamperproof or shielded when not in use;

B. all major electrical appliances must be properly installed, grounded in accordance with the state electric code, and in good working order;

C. receptacles and outlets serviced by extension cord wiring are prohibited; and

D. electrical wiring must be sized to provide for the load and be in good repair.

#### **9545.0435 SANITATION AND HEALTH.**

**Subpart 1. Sanitation and cleanliness.** The residence must be free from accumulations of dirt, rubbish, or peeling paint.

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**Subp. 2. Pest control.** Effective measures must be taken to protect the home against the entrance of vermin and insects. Chemicals for insect and rodent control must not be applied in areas accessible to children when children are present.

**Subp. 3. Rubbish.** Indoor and outdoor garbage and rubbish containers must not be accessible to infants and toddlers.

**Subp. 4. Toxic substances.** All medicines, chemicals, detergents, poisonous plants, alcoholic beverages, and other toxic substances must be inaccessible to children. They must be stored away from food products. Equipment or toys which are mouthed or may be chewed must be free of lead-based paint. Toys and equipment with chipped, cracked, or peeling paint must be tested to verify the absence of lead or be replaced.

**Subp. 5. Firearms.** All firearms must be unloaded and inaccessible to children. Ammunition and firearms must be stored in separate locked areas.

**Subp. 6. Hazardous activity materials.** Knives, matches, plastic bags, and other potential hazards must be kept out of the reach of infants, toddlers, and preschoolers. The use of potentially hazardous materials and tools must be supervised.

**Subp. 7. First aid kit.** The provider shall have a first aid kit that contains bandages, sterile compresses, ipecac syrup, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, and adhesive tape. A first aid manual must be included. The kit and manual must be accessible and taken on field trips.

**Subp. 8. Emergencies.** The provider shall be prepared for emergencies.

A. An operable telephone must be located within the residence.

B. Emergency phone numbers must be posted by the telephone. The numbers must be those of the local fire department, police department, emergency transportation, and poison control center.

C. The emergency phone numbers of the parents and child's physician and dentist must be readily available within the residence and taken on field trips.

D. Prior arrangements must be made for a substitute to provide care during emergencies.

E. For severe storms and tornadoes, the provider shall have a designated area within the residence that children shall go to for cover, and an operable battery flashlight, and portable radio or TV available.

F. The provider shall have a written fire escape plan and a log of monthly fire and storm drills on file in the residence. The plan must be approved by the agency and specify:

(1) emergency phone numbers;

(2) a place to meet outdoors for roll call;

(3) smoke detector and fire extinguisher locations;

(4) plans for monthly fire and tornado drill sessions, and practice sessions when a new child is enrolled in care; and

(5) escape routes to the outside from all levels used by children. In buildings with three or more dwelling units, enclosed exit stairs must be indicated.

**Subp. 9. Transportation of children.** When transportation is given to children, the following provisions for their safety must be made.

A. When transporting a child who is four years old or younger or who weighs less than 40 pounds, the child shall be secured by a child restraint system that meets the federal motor vehicle safety standard, number 213, Code of Federal Regulations, title 49, section 571.213, or its successor.

B. A child being transported shall use an approved safety seat, seat belt, or harness appropriate to the child's weight.

C. Any vehicle operated by the provider for the transportation of children must be licensed in accordance with the laws of the state and the driver shall hold a current, valid driver's license.

D. Written permission to transport children must be obtained from parents.

E. No child is permitted to remain unattended in any vehicle.

**Subp. 10. Separation of personal articles.** Separate towels, wash cloths, drinking cups, combs, and other personal articles must be used for each child.

**Subp. 11. Bedding.** Clean, separate bedding must be provided for each child in care.

**Subp. 12. Pets.** All pets housed within the residence shall be maintained in good health and limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, and mice. The provider shall ensure that:

A. parents are notified prior to admission of the presence of pets in the residence;

B. children handle animals only with supervision;

- C. rabies shots and tags are current for all dogs and cats;
- D. pet cages are located and cleaned away from any food preparation, storage, or serving areas;
- E. pet cages are constructed with waterproof materials that are easy to clean;
- F. cages, except an aquarium containing fish, are cleaned weekly and only with caregiver supervision;
- G. food is available daily for the pet;
- H. questions about pet illness and parasites are referred to a veterinarian;
- I. all animal waste material is disposed of in a sealed, moisture-resistant container stored away from areas used by children or for food storage, preparation, or serving;
- J. caregivers and children wash their hands with soap and water after contact with pets or pet materials;
- K. play areas are free of animal excrement not confined to pet cages; and
- L. parents of a child whose skin is broken by an animal bite or scratch, are notified of the injury on the day the injury occurs.

**Subp. 13. Diapers.** Children in diapers shall be kept clean and dry. The following sanitary procedures must be used.

A. An adequate supply of clean diapers must be available for each child and stored in a clean place out of reach of children. If cloth diapers are used, parents must provide a change of the outer plastic pants for each fecally-soiled diaper change. Cloth diapers and plastic pants, if supplied by parents, must be labeled with the child's name.

B. Diapers and clothing must be changed when wet or soiled.

C. For disposable diapers, a covered diaper disposal container must be located in the diaper changing area and lined with a disposable plastic bag. The container must be emptied when full, and at least daily.

D. Diapering must not take place in a food preparation area. The diaper changing area must be covered with a smooth, nonabsorbent surface and washed with a solution of soap and water or chlorine bleach and water after each diapering.

E. Single service disposable wipes or freshly laundered cloths must be used for washing a soiled child. A child who has soiled or wet must be washed with a disposable wipe or a freshly laundered cloth before rediapering.

F. Cloth diapers, plastic pants, and soiled clothing must be placed in the plastic bag after removal and sent home with the parent daily.

G. A container must be designated for washing the diaper changing area. All rinse water must be discarded after each diaper change.

**Subp. 14. Toilet training chairs.** Toilet training chairs, chairs, stools, and seats must be washed with soap and water when soiled, and at least daily.

**Subp. 15. Handwashing.** A child's hands must be washed with soap and water after each diaper change, after the use of a toilet or toilet training chair, and before eating a meal or snack. The provider shall monitor and assist the child who needs help.

A. Hot water temperatures must be no higher than 110 degrees Fahrenheit to prevent children from scalding themselves while washing.

B. Caregivers shall wash their hands with soap and water after each diaper change, after assisting a child on the toilet, after washing the diapering surface, and before food preparation. Hands must be dried on a single use towel.

**Subp. 16. Care of ill children, medicine administration.** The following provisions must be followed for the care of ill children and the administration of medicine.

A. The provider's policies on the care of ill children must be given to parents prior to admission.

B. The provider shall notify the parent immediately when a child in care develops any of the following symptoms:

- (1) underarm temperature of 100 degrees Fahrenheit or over, or an oral temperature of 101 degrees Fahrenheit or over;
- (2) vomiting;

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## PROPOSED RULES

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- (3) diarrhea; or
- (4) rash, other than mild diaper or heat-related rash.

C. The provider shall follow written instructions from the parent of an ill child placed in the provider's care with any of the symptoms specified in item B or the illnesses specified in subitems (1) to (9).

- (1) conjunctivitis;
- (2) streptococcal infections;
- (3) viral hepatitis;
- (4) measles and rubella;
- (5) mumps;
- (6) pertussis (whooping cough);
- (7) chicken pox;
- (8) lice, scabies, or impetigo; and
- (9) influenza.

D. The provider shall require that a child's parent notify the provider within 24 hours of the diagnosis of a serious contagious illness or parasitic infestation so the provider may notify the parents of other children in care. Contagious serious illness or parasitic infestation shall mean lice, scabies, impetigo, conjunctivitis, streptococcal infections, viral hepatitis, measles and rubella, mumps, tuberculosis, pertussis, bacterial meningitis, pneumonia, epiglottitis, cellulitis, bronchiolitis, and diarrhea.

E. The provider shall inform all parents of exposed children the same day a positive diagnosis has been made for any of the illnesses or parasitic infestations in item D.

F. The provider shall notify the local health officer or Minnesota Department of Health of any suspected case of reportable disease as specified in part 4605.0200. The agency shall provide the provider with a copy of part 4605.0200 at the time of initial licensure.

G. The following govern the administration of medicine by the provider to children in care:

(1) The provider shall obtain written permission and instructions from the child's parent prior to administering medicine, diapering products, sunscreen lotions, and insect repellants.

(2) The provider shall obtain and follow written instructions from a licensed physician or dentist prior to administering each prescription medicine. Medicine with the child's name and current prescription information on the label constitutes instructions.

### 9545.0445 WATER, FOOD, AND NUTRITION.

**Subpart 1. Water.** There must be a safe water supply in the residence.

A. Water from privately-owned wells, must be tested annually by the Minnesota Health Department or a Minnesota Environmental Protection Agency-certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. The provider shall file a record of the test results with the agency. Retesting may be required by the agency where the supply may be subject to off-site contamination.

B. Drinking water must be available to the children and offered at frequent intervals. Drinking water for children, including older infants, must be provided in separate or single service drinking cups or bottles.

**Subp. 2. Milk.** Milk served to children in care must be pasteurized.

**Subp. 3. Meals and snacks.** The provider's plans for well-balanced meals and snacks must be posted, followed, and offered daily.

A. Food served during the day must include servings from each of the basic food groups as defined by the United States Department of Agriculture's Code of Federal Regulations, title 7, section 226.20.

B. The provider shall follow written instructions obtained from the parents, at the time of enrollment, on each child's special diet or food needs. Parents shall be consulted about special food preferences.

C. Flexible feeding schedules must be provided for infants and toddlers, and the infant or toddler's usual diet and feeding schedule must be followed.

D. Food, lunches, and bottles brought from home must be labeled with the child's name and refrigerated when necessary. Bottles must be washed after use.

**Subp. 4. Food safety.** Food must be handled and stored properly to prevent contamination and spoilage.

A. All food and cooking utensils must be stored to protect them from dust, vermin, pipe leakage, or other contamination.

B. Food needing refrigeration must be stored at no more than 40 degrees Fahrenheit.

C. Appliances used in food storage and preparation must be safe and clean.

D. Except for home-canned meat, fish, and poultry, the use of home-canned food is acceptable if processed by methods approved by the United States Department of Agriculture, Bulletin number 8, or University of Minnesota, Extension Bulletin 413, "Homecanning Fruits, Vegetables and Meats."

**REPEALER.** Minnesota Rules, parts 9545.0310, 9545.0320, 9545.0330, 9545.0340, 9545.0350, 9545.0360, 9545.0370, 9545.0380, 9545.0390, 9545.0400, 9545.0410, 9545.0420, 9545.0430, 9545.0440, and 9545.0450, are repealed, except for providers who are licensed under those parts. As to those providers, parts 9545.0310, 9545.0320, 9545.0330, 9545.0340, 9545.0350, 9545.0360, 9545.0370, 9545.0380, 9545.0390, 9545.0400, 9545.0410, 9545.0420, 9545.0430, 9545.0440, and 9545.0450 are repealed six months after the notice of adoption of parts 9545.0315 to 9545.0445 is published in the *State Register*.

**EFFECTIVE DATE.** Parts 9545.0315 to 9545.0445 take effect five days after the notice of adoption is published in the *State Register*, except for providers who are licensed on that date under parts 9545.0310 to 9545.0440. As to those providers, parts 9545.0315 to 9545.0445 take effect six months after the notice of adoption is published in the *State Register*.

Any provider who is licensed under parts 9545.0310 to 9545.0440 five days after the notice of adoption of parts 9545.0315 to 9545.0445 is published in the *State Register* and who is not providing care in a residence as defined by part 9545.0315, subpart 27, may be licensed under parts 9545.0315 to 9545.0445 until the provider ceases to give care in that facility or obtains a license to operate a day care center.

## ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *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 strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after 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 emergency rule will be published in the manner provided for adopted rules under § 14.18.

## Department of Human Services

### Adopted Amendment of the Department of Human Services' Rule Governing Adoption

The rule proposed and published at *State Register*, Volume 8, Number 27, pages 1589-1603, January 2, 1984 (8 S.R. 1589) is adopted with the following modifications:

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# ADOPTED RULES

## Rule as Adopted

### 12 MCAR § 2.200 Adoption.

#### A. Purpose; definitions.

1. Goal of the Minnesota adoption program: to ensure for each child, who is free to be legally adopted in the state, a suitable adoptive home and agency services supportive of his or her integration into the new family.

2. The term used in 12 MCAR § 2.200 have the meanings given them.

d. "Commissioner" means the commissioner of the Department of ~~Public Welfare~~ Human Services.

f. "Genetic parent" means an individual who is referred to as the child's ~~natural~~ birth parent, who is named in the child's original birth certificate as a parent, whose claim to genetic parenthood is unchallenged, or whose genetic parenthood is established by a court of competent jurisdiction.

g. "Independent placement" means a proposed or actual nonagency placement of a child by a ~~natural~~ parent or unlicensed third party with persons not related to the child within the third degree.

l. "Placing agency" means the Minnesota licensed child-placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial and adoptive planning responsibility for a ward of the commissioner of ~~public welfare~~ human services. The A placing agency retains adoptive planning responsibility may also include a supervisory agency which is providing adoptive planning services for the child even though another agency is supervising.

p. "State adoption exchange" means the central adoptive home and child registration service operated by the Minnesota Department of ~~Public Welfare's~~ Human Services' adoption unit for use by authorized child-placing agencies.

q. "State agency" means the commissioner of ~~public welfare~~ human services or the Minnesota Department of ~~Public Welfare~~ Human Services.

r. "Subsidized adoption" means an adoption in which an agreement provides that financial ~~payments~~ assistance shall be made to the adoptive parents, subsequent guardian, or conservator because of special needs of a child who is certified as eligible for subsidy.

#### C. Services for children freed for adoption.

1. State photographic adoption exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all authorized child-placing agencies in accordance with procedures under Minnesota Statutes, section 259.45 and the commissioner.

b. An authorized child-placing agency seeking to defer registration of the child shall make a written request to the exchange for written approval. The request for deferral must meet one of the conditions in (1)-(6).

(6) The child is 14 years of age or older and, after ~~discussion~~ counseling with the agency on permanent placement options, will not consent to an adoption plan. The agency shall then assist the child in executing an affidavit to file with the exchange in which the child states that decision and an awareness that the decision may be changed at any time.

5. Child placement. The policies in a. and b. govern the local social service agency's preplacement and postplacement activities.

a. Preplacement activities must include those in (1)-(5).

(5) During the time the child resides in the adoptive home, the local social service agency shall continue administrative reviews but is not required to schedule a court dispositional hearing unless the child is either removed from the home or is not legally adopted within two years of the date of placement.

6. Subsidized adoptions. Subparts a.-h. provide standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement subject to the commissioner's approval. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the commissioner for a child under legal guardianship of the commissioner or a licensed child-placing agency. The commissioner may review and verify the facts upon which the child's eligibility is based.

d. When determining the amount of subsidy required to meet the child's needs, the placing agency shall consider the financial resources, social security and veterans benefits, health insurance coverage, medical assistance programs, and other resources, ~~including the adoptive parent's resources~~ which are available or which may be available to the child.

(1) The placing agency shall document the amount of the child's maintenance needs for food, clothing, and shelter which cannot be met by adoptive parent and other financial resources. The monthly maintenance subsidy payment may be less than or equal to the following maintenance standards:

Age	Monthly Maintenance Subsidy
0-5	\$200
6-11	230
12-14	260
15-18	290

The state agency shall ~~biannually~~ annually review and adjust the maintenance rate schedule.

(3) The placing agency shall determine whether the child has additional expenses or other costs not included in (1) and (2) which are necessary for the child's care and well-being, including the purchase of services, items, or equipment not provided by other community resources. The placing agency shall specify and document the child's special cost needs ~~and document the actual or estimated expense required to meet those needs~~ which are in excess of (1) and (2) according to criteria level (a), (b), (c), or (d).

(a) The child is self-motivated, but due to physical, mental, emotional, or behavior conditions, has one or more of the following needs:

(i) requires assistance and training in dressing, eating, hygiene, or moving from place to place;

(ii) requires an undue amount of attention that disrupts the family's daily structure;

(iii) must have a regimented daily routine;

(iv) requires consistent bimonthly or more frequent contact with specialized community programs and facilities or professional resources;

(v) causes damage or destruction of the environment because of behavior or use of special equipment; or

(vi) exhibits dependency needs in an inability to bond or relate to others, withdrawal, passive aggressive behavior, or delayed maturation.

The monthly rate under criteria (a) shall be \$150.

(b) The child's chronic physical, mental, or emotional condition requires one or more of the following:

(i) ongoing daily care and assistance due to profound mental retardation or multiple handicaps;

(ii) continuing training and mastery of a specialized communication technique with family members  
learning the skill;

(iii) communication skill is mastered but is time consuming;

(iv) weekly or more frequent in-home therapy toward managing physical, emotional, or behavioral  
difficulties; or

(v) weekly or more frequent use of community health, special educational, and rehabilitation resource.

The monthly rate under criteria (b) shall be \$275.

(c) The child's acute or chronic physical, mental, emotional, or behavioral condition is severe and requires one or more of the following:

(i) controlling the child's interaction within the family and in the community;

(ii) restructuring of the home to physically accommodate the child;

(iii) monitoring the child's condition daily to anticipate emergency medical distress;

(iv) hourly management of the child's behavior; or

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## ADOPTED RULES

(v) diagnoses of an acute condition has been completed and psychological intervention has begun.

The monthly rate under criteria (c) shall be \$400.

(d) The child's only alternative is institutionalization or professional care due to chronic or acute physical, mental, or emotional condition. The child requires all of the following:

(i) total 24-hour care and supervision by a trained caregiver;

(ii) monitoring of child's condition, medication, or equipment on a 24-hour basis;

(iii) use of multiple specialized community programs, facilities, and professional resources to maintain the child in the home; and

(iv) requirement of institutional or paramedical skilled care at the time of family respite care.

The monthly rate under criteria (d) shall be \$500.

The placing agency shall include appropriate medical, psychological, or psychiatric evaluations that document the level of the child's special needs.

The state agency shall annually review and adjust the rate schedule for special needs.

## Department of Human Services Aging Division

### Adopted Temporary Rules Governing the Relocation of Nursing Home Residents

The rules proposed and published at *State Register*, Volume 8, Number 32, pages 1817-1820, February 6, 1984 (8 S.R. 1817) are adopted with the following modifications:

#### Temporary Rules as Adopted

##### 12 MCAR § 2.04601 [Temporary] Authority and applicability.

###### A. Authority.

1. Laws of Minnesota 1983, chapter 199, section 5, subdivision 4, authorizes the commissioner of ~~public welfare~~ human services to implement a resident relocation plan that instructs the local social services agency for the county in which a long-term care facility is located of procedures to follow to ensure that the needs of residents are met during a relocation.

2. Laws of Minnesota 1983, chapter 199, section 16, requires that the commissioner of ~~public welfare~~ human services promulgate temporary and permanent rules to implement the provisions of Laws of Minnesota 1983, chapter 199, including a resident relocation plan.

##### 12 MCAR § 2.04602 [Temporary] Definitions.

H. Relocation. "Relocation" means a situation when residents are to be discharged from a nursing home or certified boarding care home as a result of the closing of the facility, loss of or change in certification, ~~termination of receivership~~, or termination of the facility's medical assistance provider agreement.

##### 12 MCAR § 2.04604 [Temporary] Procedure upon notification.

The local social service agency and its county relocation committee shall initiate the procedures provided in 12 MCAR §§ 2.04605-2.04606 [Temporary] immediately upon receipt of written notification of the need for relocation from the ~~income maintenance bureau~~ commissioner of the Department of Public Welfare Human Services or a designee.

##### 12 MCAR § 2.04606 [Temporary] Reporting.

A. Initial report. The local social services agency shall submit a written report to the ~~social services division~~ commissioner of the Department of Public Welfare Human Services or a designee within one week from the date of receipt of the written notice of the need to relocate residents. The initial report shall contain the following information:

B. Status reports. During a relocation process the county relocation committee shall provide weekly status reports to the ~~social services division~~ commissioner of the Department of Public Welfare Human Services or a designee. The status reports shall include:



C. Summary report. The county relocation committee shall provide a summary report to the ~~social services division commissioner of the Department of Public Welfare~~ Human Services or a designee within 60 days of the completion of each facility relocation process. The report shall include:

~~D. Submission of summary report. One copy of the summary report shall be submitted to the social service division of the Department of Public Welfare. A second copy of this report shall be submitted to the income maintenance bureau of the Department of Public Welfare.~~

## **Pollution Control Agency Water Quality Division**

### **Adopted Rules Governing Standards for the Protection of the Quality and Purity of the Waters of the State; and Adopted Rules Governing Classification of Waters of the State**

The rules proposed and published at *State Register*, Volume 8, Number 38, pages 2066-2105, March 19, 1984 (8 S.R. 2066) are adopted with the following modifications:

#### **Rules as Adopted**

#### **7050.0180 NONDEGRADATION POLICY.**

**Subp. 2. Definitions.** For the purpose of this part, the following terms have the meanings given them:

A. "Outstanding resource value waters" are waters within the Boundary Waters Canoe Area Wilderness, Voyageur's National Park, and Department of Natural Resources designated scientific and natural areas, wild, scenic, and recreational river segments, Lake Superior, those portions of the Mississippi River from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981, and other waters of the state with high water quality, wilderness characteristics, unique scientific or ecological significance, exceptional recreational value, or other special qualities which warrant stringent protection from pollution.

C. "Expanded discharge" means a discharge that changes in volume, quality, location, or any other manner after the effective date of these amendments ~~except that a change that results in reduced loading of pollutants is not considered an expanded discharge~~ such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency at the time these parts take effect.

**Subp. 6. Restricted discharges.** No person may cause or allow a new or expanded discharge of any sewage, industrial waste, or other waste to Lake Superior, those portions of the Mississippi River from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981, and federal or state designated scenic or recreational river segments unless there is no prudent and feasible alternative to the discharge. If a new or expanded discharge to these waters is permitted, the agency shall restrict the discharge as to duration, volume, and loading to the extent necessary to maintain future water quality within the range of natural background quality to the extent necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the water an outstanding resource value water. Waters with a federal or state scenic or recreational designation include but are not limited to:

**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.

## ADOPTED RULES

### Pollution Control Agency Water Quality Division

#### Adopted Rules Governing Standards for the Protection of the Quality and Purity of the Waters of the State; and Adopted Rules Governing Classification of Waters of the State

The rules proposed and published at *State Register*, Volume 8, Number 38, pages 2066-2105, March 19, 1984 (8 S.R. 2066) are adopted with the following modifications:

##### Rules as Adopted

##### 7050.0470 CLASSIFICATIONS FOR WATERS IN MAJOR SURFACE WATER DRAINAGE BASINS.

##### Subp. 2. Lake of the Woods Basin.

Lakes

\* Rainy Lake

(T.70, 71, R.18, 19, 20,

1B, 2B, 3A

### Department of Revenue Property Equalization Division

#### Adopted Rules Relating to Certificate of Real Estate Value

The rules proposed and published at *State Register*, Volume 8, Number 41, pages 2220-2223, April 9, 1984 (8 S.R. 2220) are adopted with the following modifications:

##### Rules as Adopted

##### 8110.0100 MANDATORY INFORMATION.

In order to be accepted for filing a certificate of real estate value must contain the following data:

E. A statement signed by the buyer that the information provided on the certificate is correct and complete under penalty of the law. "Buyer" for the purpose of this rule means the individual or one of the individuals who will get title to the property, or a partner if a partnership will get title, or an officer if a corporation will get title.

"Buyer" may also include an attorney or agent of the buyer.

~~The form must also require the telephone number of the buyer or the buyer's agent or attorney.~~

F. The buyer's telephone number at home or work. If the buyer has no current telephone number, but has an agent or attorney, the telephone number of his agent or attorney may be used. If the buyer has no current telephone number and no agent or attorney, no telephone number is required.

##### 8110.0300 SUPPLEMENTAL DOCUMENTS.

The buyer when completing the certificate may attach supplemental documents if the buyer needs to expand on any of the requested data. For example, in the case of a lengthy legal description of the property being transferred or conveyed, a copy of the deed may be attached. Any supplemental documents accompanying the certificate ~~should~~ must be attached to the Department of Revenue's copy of the certificate.

##### 8110.0400 COMMISSIONER'S AUDIT.

~~The certificates of value are subject to audit by the commissioner. The commissioner shall require additional documentation from the buyer, the buyer's agent or attorney, or the seller in order to verify the accuracy of any information required on the certificate. The commissioner shall determine the certificates subject to audit.~~

##### ~~8110.0500~~ FORM TO BE COMPLETE AND SIGNED.

The county auditor shall not accept a certificate for filing unless the form is complete and contains the buyer's signature.

The county auditor shall accept for filing any certificate which contains only the data required by part 8110.0100 if the certificate shows that one of the types of transfers listed in part 8110.0200, subpart 1 is involved. If the type of transfer involved is not listed in part 8110.0200, subpart 1, the county auditor shall not accept the certificate unless the date required

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## OFFICIAL NOTICES

by part 8110.0200, subpart 2 is included on the form. If the form is complete, the county auditor shall accept the certificate and has no responsibility for the accuracy for the data provided.

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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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### Board of Animal Health

#### Notice of Special Board Meeting

A special meeting of the Board of Animal Health has been scheduled for Friday, December 7th, 1984 at the Board office at 9:30 a.m.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

Dr. J. G. Flint  
Executive Secretary

### Department of Commerce Board of Boxing

#### Outside Opinion Sought Regarding Proposed Rules Relating to Amateur Boxing, Professional Boxing, Kick Boxing and Karate Including the Impact of the Rules on Small Business

Notice is hereby given that the Board of Boxing is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing Amateur Boxing, Professional Boxing, Kick Boxing and Karate. Promulgation of these rules is authorized by Minnesota Statutes, sections 341.045 (1983) and 341.05, subd. (1) (1982).

Outside opinion is also being solicited as to how these rules will effect small business as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Board of Boxing 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 to: James O'Hara, Executive Director, Board of Boxing, Department of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101. (612) 296-2501.

All statements of information and comment shall be accepted until December 5, 1984. Any written material received by the Board of Boxing shall become part of the record in the event that the rules are promulgated.

John Kelly, Chairman  
Board of Boxing

**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.

## OFFICIAL NOTICES

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### Department of Education Program Effectiveness Division

#### Public Meeting Notice

The Minnesota Special Education Advisory Council will hold its next meeting on November 1 and 2, 1984. The meeting is scheduled to begin at 10:00 a.m. at the Granada Royale Homotel in St. Paul. Agenda topics include: Review of Monitoring Plan for FY 85 and Due Process Hearing Decision; Update on Comprehensive System of Personnel Development (CSPD); State and Local Eligibility Criteria; Priorities for Effectiveness; State Department of Education Legislative Proposals; Special Education's Discretionary Plan; Update on Transition to Work Initiatives; Early Childhood Special Needs; Special Net and the Review of the State Plan.

For additional information contact Darlene Bell, Special Education Section at (612) 296-8588.

### Ethical Practices Board

#### Request for Advisory Opinion Re: Campaign Expenditures

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion which will be discussed at its November 15, 1984, Board meeting. Written comments concerning the opinion request should be forwarded to arrive at the Board's office prior to November 13, 1984.

Mary Ann McCoy, Executive Director  
Ethical Practices Board  
Room 41 State Office Building  
345 Park Street  
St. Paul, Minnesota 55155

Dear Ms. McCoy:

An issue has come to my attention which I have not been able to resolve through discussions with other members of the campaign staff and therefore I ask you to clarify the reporting requirements presented with the following situation.

This year the Governor has taken a number of airplane trips in order to appear on behalf of legislative candidates in their election campaigns. The expenses incurred by the Governor on these trips are reported through the Governor's campaign committee as campaign expenses. What, if any, portion of the Governor's transportation expenses should be allocated to the candidates as expenses incurred on behalf of the individual candidates and therefore reportable by them? I am not referring to the situation where the Governor is transporting other candidates.

Any information you could give me would be appreciated. Thank you.

Sincerely,  
Walter J. Duffy, Jr., Treasurer  
Perpich Volunteer Committee

### Department of Human Rights

#### Outside Opinion Sought Concerning Proposed Rules Governing Case Processing Policies and Procedures

NOTICE IS HEREBY GIVEN that the Department of Human Rights is seeking information or opinions from persons or groups in preparing and amending rules governing Case Processing Policies and Procedures.

The promulgation of these rules is authorized by Minnesota Statutes § 363.05 (1984) which authorizes the commissioner to adopt suitable rules and regulations for effectuating the purposes of Chapter 363.

The Department of Human Rights requests information and comments concerning the subject matter of these rules, including comment on the issue of whether or not these rules and amendments are likely to have a qualitative or quantitative

impact upon small business as defined by Minn. Stat. § 14.115. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Mary A. Hartle  
Information Officer  
Minnesota Department of Human Rights  
500 Bremer Tower—7th and Minnesota Streets  
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-9048.

All statements of information and comment shall be accepted until November 12, 1984. Any written material received by the Department of Human Rights shall become part of the record.

## Department of Human Services

### Notice of Health Care Services Which Require Prior Authorization and Surgical Procedures Which Require a Second Opinion

Pursuant to Minnesota Rules, part 9505.5030, subpart 1 (Emergency) the following is the list of procedures and CPT Codes of which pertinent procedures are subject to the second opinion requirements of 9505.5030 (Emergency).

<u>Service Name</u>	<u>CPT-4—1984 Version Codes</u>
1. Tonsillectomy and/or adenoidectomy	42820, 42821, 42825, 42826, 42830, 42831, 42835, 42836
2. Hysterectomy	58150, 58152, 58180, 58260, 58265, 58267, 58270, 58275, 58280, 58285
3. Hernia repair	49500, 49505, 49510, 49515, 49520, 49525
4. Cholecystectomy	47600, 47605, 47610, 47620, (47610 with 47550)

As required by the Minnesota Rules part 9505.5020, Subpart 4, the following list includes all health services that require prior authorization as a condition of Medical Assistance or General Assistance Medical Care reimbursement. The list is presented in five sections: dental services, vision care services, medical supplies and durable medical equipment, hearing aids, and all other services.

#### I. Dental Services

In addition to the specific services and procedures listed below, the following dental services always require prior authorization:

1. Hospitalization for dental treatment.
2. Surgical services except emergencies and alveolectomies.

<u>Service Code</u>	<u>Service Description</u>
D2960	Labial veneer (laminare)
D4365	Athletic mouthguard fabrication
D5213	Upper-cast chrome base, with acrylic saddles, excluding clasps
D5214	Lower cast chrome base, with acrylic saddles, excluding clasps
D5934	Mandibular resection (flange) prosthesis
D5935	Mandibular resection (denture) prosthesis
D5454	Superimposed prosthesis
D5955	Palatal lift prosthesis
D5956	Obturator

# OFFICIAL NOTICES

<u>Service Code</u>	<u>Service Description</u>
D5957	Speech bulb
D5971	Simple implant
D5972	Complex implant
D5973	Subperiosteal implant
D5974	Endosseous implant (in the bone)
D5975	Endodontic—endosseous pin (through root and into bone)
D5981	Splint—per arch
D5982	Surgical stent
D5986	Flouride applicator—per arch
D5987	Trismus appliance
D5988	Infant orthopedic appliance
D5989	Maxillary included plane and/or maxillary occlusal table
D5990	Mandibular guide flange
D6545	Cast metal retainer (for acid etch bridge) to be used to report each abutment tooth. The appropriate code from the 06200 series, bridge pontics, is to be used to report the pontic
D7941	Osteotomy, ramus, closed
D7942	Osteotomy, ramus, open
D7943	Osteotomy, ramus, open with bone graft
D7944	Segmented or subapical per sextant or quadrant
D7945	Osteotomy, body of mandible
D7946	Maxilla, total (Le-Fort I)
D7947	Maxilla, segmented
D7948	Osteoplasty of maxilla and/or other facial bones for midface hypoplasia or retrusion (Le Fort II and III) without bone graft.
D7949	Same as above except with bone graft
D7991	Coronoidectomy
D7992	Eminectomy
D7993	Alloplastic implant to maxilla and other facial bones
D7994	Implant, chin, homologous, heterologous, or all-aplastic
00321	TMJ—x-rays left and right
00901	Prosthetic eye inc. services & mat.
02410	Gold foil—1 surface
02420	" " —2 surfaces
02430	" " —3 surfaces
02710	Plastic acrylic
03310	One canal (excludes final restoration)
03311	Root canal, anterior, sargenti type
03320	Two canals (excludes final restoration)
03321	Root canal, bicuspid, sargenti type
03330	Three canals (excludes final restoration)
03331	Root canal, molar, sargenti type
00340	Four canals (excludes final restoration)
03350	Apexification
03460	Endosseous implants
03960	Bleaching
04120	Gingival curettage
04210	Gingivectomy or gingivoplasty
04211	Gingivectomy & gingivoplasty
04220	Gingival curettage
04240	Gingival flap proc
04250	Muco—ging surg—per quad
04260	Osseous surg. incl. flap
04261	Osseous graft—single site
04262	Osseous graft
04270	Pedicle soft tissue grafts
04271	Free soft tissue grafts

<u>Service Code</u>	<u>Service Description</u>
04272	Vestibuloplasty
04280	Peridontal pulpal procedures
04320	Provisional splinting—entracoronal
04321	Provisional splinting—extracoronal
04330	Occlusal adjustment (limited)
04331	" " (complete)
04340	Periodontal scal & root pain—entire mouth
04341	Periodontal scal & root plan
04350	Tooth move for periodontal prps
04360	Special periodontal appliance
04500	Type I gingivitis
04600	Type II early periodontitis
04700	Type III moderate periodontitis
04800	Type IV advanced periodontitis
04910	Prevent period procedures
05110	Complete upper
05120	Complete lower
05130	Immediate upper
05140	Immediate lower
05210	Upper or lower w/o clps acrylic base
05211	Upper w/o clasps—acrylic
05212	Lower w/o clasps—acrylic
05215	Upper w/ gold clasps—acrylic
05216	Upper w/ two chrome clasps—acrylic
05217	Lower w/ two gold clasps—acrylic
05218	Lower w/ two chrome clasps—acrylic
05220	Upper or lower w/ two gold or chrome clasps
05221	Upper or lower cast parital (any design)
05230	Lower w/ gold lining bar-2 clasps—acrylic
05231	Lower w/ chrome lining bar-2 clasps—acrylic
05240	Lower w/ gold lining bar-2 clasps—cast base
05241	Lower w/ gold lining bar-2 clasps—cast base
05250	Upper w/ gold palatal base-2 clasps—acrylic
05251	Upper w/ chrome palatal bar-2 clasps—acrylic
05260	Upper w/ gold palatal bar-2 clasps—cast base
05261	Upper w/ chrome palatal bar-2 clasps—cast base
05280	Remove uni-lat part dent—1 pc gold
05281	Remove uni-lat part dent—1 pc chrome
05290	Full cast partial
05291	Upper full cast part w/ two gold clasps
05292	Upper-full cast part w/ two gold clasps
05293	Lower-full cast part w/ two gold clasps
05294	Lower-full cast part w/ two chrome clasps
05310	Each additional clasp
05320	Each additional tooth
05810	Dent-temp-complete upper
05811	Dent-temp-complete lower
05820	Dent-temp-stay-plate upper
05821	Dent-temp-stay-plate lower
05830	Hing. phar. sec. inc. hin. (PR/PST Clef. Pal)
05840	Solid clear pharyngeal section
05845	Hollow clear bulb pharyngeal section
05860	Over denture parital
07210	Extracton of tooth, erupted
07216	Removal a/o excision supernum, impact
07220	Extract of tooth, soft tissue

## OFFICIAL NOTICES

<u>Service Code</u>	<u>Service Description</u>
07230	Extraction of tooth partial bony impact
07240	Extraction tooth complete bony impact
07241	Impaction—presents unusual diff
07270	Tooth replantation
07271	Tooth implantation
07272	Tooth transplantation
07280	Surg expos impact unerupt tooth
07281	Surg expos—imp aid erupt
07290	Surgical repositioning of tooth
07340	Per arch, uncomplicated
07350	Per arch, comp—inc. soft tissue graft ridext
07470	Removal exostosis max or mand
07480	Part. ostect. (guttering saucerization)
07490	Radical resection mandible bone graft
07940	Osteop
07950	Osteop, pertost cart graft
07955	Repair max—fac soft htd tissue defects
07970	Excision of hyperplas
07980	Sialolithotomy
07981	Excision of salivary gland
07982	Sialodochoplasty
08001	Fixed—formal full-banded I maloccl
08002	Fixed—formal full-banded II maloccl
08003	Fixed—formal full-banded III maloccl
08020	Full orthodont case study
08110	Removable
08120	Fixed or cemented
08210	Removable
08220	Fixed or cemented
08310	Removable
08320	Fixed
08360	Removable appliance therapy
08370	Fixed appliance therapy
08410	Class I malocclusion
08420	Class II malocclusion
08430	Class III malocclusion
08460	Class I malocclusion
08470	Class 2 malocclusion
08480	Class 3 malocclusion
08510	Class I malocclusion
08520	Class II malocclusion
08530	Class III malocclusion
08560	Class 1 malocclusion
08570	Class 2 malocclusion
08580	Class 3 malocclusion
08610	Class I malocclusion
08620	Class II malocclusion
08630	Class III malocclusion
08650	Trt. of atypical or extended skel. case
08710	Class I malocclusion
08720	Class II malocclusion
08730	Class III malocclusion
08750	Post trt. stabilization
08810	Class I malocclusion
08820	Class II malocclusion



<u>Service Code</u>	<u>Service Description</u>
08830	Class III malocclusion
08910	Class 1 malocclusion
08920	Class 2 malocclusion
08930	Class 3 malocclusion
09940	Occlusal adjustment (minor),
21010	Arthrotomy, temporomandibular joint; unilateral
21011	bilateral
21050	Arthrectomy, temporomandibular joint; unilateral
21051	bilateral
21060	Menisectomy, temporomandibular joint; unilateral
21061	bilateral
21240	Arthroplasty, temporomandibular joint
21242	Arthroplasty, temporomandibular joint, with alloplastic material
21462	Open treatment of closed or open mandibular fracture; with interdental fixation
21480	Uncomplicated treatment of temporomandibular dislocation; initial or subsequent
21485	Complicated manipulative treatment of temporomandibular dislocation
21490	Open treatment of temporomandibular dislocation
70328	Radiologic examination; temporomandibular joint, open and closed mouth
70330	bilateral
70332	Temporomandibular joint arthrotomography; supervision interpretation only
70333	Complete procedure

## II. Vision Care Services

<u>Service Code</u>	<u>Service Description</u>
V0280*	Dispensing fee, bifocal lens
V0320	Dispensing fee, single vision contact lens
V0350	Dispensing fee, bifocal contact lens
V0490*	Dispensing fee, single vision lens
V2020*	Frames, purchases
V2118	Aniseikonic lens, single vision
V2218	Aniseikonic, per lens, bifocal
V2219	Bifocal seg width over 28mm
V2299	Specialty bifocal (by report)
V2318	Aniseikonic lens, trifold
V2319	Trifocal seg width over 28mm
V2399	Specialty trifocal (by report)
V2500	Contact lens, PMMA, spherical, per lens
V2501	Contact lens, PMMA, toric or prism ballast, per lens
V2502	Contact lens, PMMA, bifocal, per lens
V2510	Contact lens, gas permeable, spherical, per lens
V2511	Contact lens, gas permeable, toric, prism ballast, per lens
V2512	Contact lens, gas permeable, bifocal, per lens
V2513	Contact lens, gas permeable, extended wear, per lens
V2520	Contact lens, hydrophilic, spherical, per lens
V2521	Contact lens, hydrophilic, toric, or prism ballast, per lens
V2522	Contact lens, hydrophilic, extended wear, per lens
V2523	Contact lens, hydrophilic, extended wear, per lens
V2530	Contact lens, scleral, per lens (for contact lens modification, See 92325)
V2599	Not otherwise classified, contact lens
V2600	Hand held low vision aids and other nonspectacle mounted aids
V2610	Single lens spectacle mounted low vision aids

\*Prior authorization necessary only if service has been utilized by recipient within the past 12 months.

## OFFICIAL NOTICES

<u>Service Code</u>	<u>Service Description</u>
V2615	Telescopic and other compound lens system, including distance vision telescopic, near vision telescope and compound microscopic lens system
V2622	Prosthetic, eye, glass, custom
V2623	Prosthetic eye, plastic, custom
V2629	Not otherwise classified, prosthetic eye
V2718	Press on lens, fresnell prism, per lens
V2744	Tint, photochromatic, per lens
V2750	Anti-reflective coating, per lens
V2755	U-V lens, per lens
V2760	Scratch resistant coating, per lens
V2780	Oversized lens, per lens
V2799	Not otherwise classified
X0101*	Eye exam with complete visual fields included by optometrist
X0103*	Eye refraction only
X0108	Orthoptic eval by optom
X0109	Orthoptic re-eval by optom
X0111	Orthoptic and/or pleoptic trng
92354	Fitting low vision aid, single element
92355	Fitting low vision aid, telescopic
92392	Supply of low vision aid, materials

\*Prior authorization necessary only if service has been utilized by recipient within the past 12 months.

### III. Medical Supplies and Durable Medical Equipment, Including Prosthetic and Orthodontic Items

In addition to the specific supplies and equipment listed below, items in the following general categories always require prior authorization:

1. Durable medical equipment when the purchase or projected cumulative rental cost exceeds \$250.
2. Nondurable medical supplies when the cost exceeds \$150.
3. Prostheses and orthoses when the purchase or projected cumulative rental cost exceeds \$1,000.
4. All indwelling catheters.
5. All O<sub>2</sub> and equipment necessary for the administration of oxygen except in documented emergencies as specified in the rules of the Department of Human Services, section 9505.5020, subpart 2.
6. Repairs to durable medical equipment, prostheses, and orthoses when the cost exceeds \$200.

<u>Supply Code</u>	<u>Supply Description</u>
E0155	Sitz type bath, portable, fits comm st. faucet
E0179	Bathroom equipment; rails, seats, stools, bench
E0190	Decubitus care matt, inc float or gel mat
E0265	Hosp bed, tot elec hd, ft. ht adj. w/mattress
E0300	Mattress, replc, med. nec. bed owned by pat.
E0410	Oxygen, liquid, per pound
E0415	Oxygen, liquid, per 100 pounds
E0690	Ultraviolet cabinet, approp home use
E1000	W/c access: tray, back rest, loops any fy
E1005	Replace battery: elec w/c owned by pat
E1130	W/c stand, fix F-L arm, sw away detach foot
E1300	Whirlpool, portable overtub type
E1310	Whirlpool, nonportable built-in type
E1350	Repair (breaking down seal com-requires)
E1399	Durable medical equip not otherwise clas including Clinton beds, etc.
80002069	Sitz type bath, port w/faucet attachment
80003506	Mattress hospital bed (replacement only)
8000610x	Catheter, retention/ea

<u>Supply Code</u>	<u>Supply Description</u>
80009177	Air flotation pad (E-G roho)
80009188	Water flotation pad (E-G bard)
80009199	Flotation pad, leveling mattress
80012317	Chairs, mobile lounge w/ arms
80012328	Chair, bath
80013004	Drainage apparatus/ea
80015001	Parenteral administration/ea
80018002	Hydrotherapy apparatus/ea
80022008	Diabetic equipment (nec)
80022019	Diabetic equipment
80022201	Blood glucose analyzer
80038007	Wheelchairs/ea
80038051	Wheelchair, standard folding/ea
80038109	Wheelchair, standard, folding w-swing footrsts/ea
80038630	Rollabout chair with arms
80038801	Wheelchair, accessories/ea
80038856	Wheelchair cushions
80039011	Batteries 12 volt
80039022	Special height seat
80039033	Special height back
80039044	Sectional back
80040005	Arm of chair, adj HT/FI lngth/detch arm
80040016	Adj Ht dsk length detachable arms/pr.
80040027	Full ht side panels to arm bend/pr.
80040038	Side panel, stainless steel, spcl ht
80040049	Heavy duty side panel, stainless steel, P
8004005x	Heavy duty side panel, stainless steel, sh
80040060	Tray mate, adult, fits seat widths of 14
80040071	Tray mate, child
80040082	Adjusto tray w/rim
80040093	Adjusto tray w/rim
80040107	Adjusto tray w/rim
80040118	Adjusto tray w/rim
80041029	Chair caddie/ea
8004013x	Body pos. Adult—chairs w/standard bk
80040140	Body positioner, child for chairs w/standard
80040151	Body positioner, adult chairs w/reclining
80040162	Body positioner child, chairs w/reclining
80040300	Back of chair/anti-tipping device
80040311	Anti-tipping device
80040322	Headwings for tiny tot
80040333	Buckle lock strap
80040344	Velcro lock strap
80040355	Luggage rack—bolt on
80040366	Hook-on headrest
80040377	Headrest
80040388	Zipper back upholstery for chairs
80040399	Back upholstery
80040402	Detach back upholstery
80040413	Back upholstery
80040424	Solid insert back for chairs
80040435	Bolt on headrest w/headwings
80040446	Slack back upholstery chairs
80040457	Ortho backrest to correct posture
80040468	Crutch or cane holder

## OFFICIAL NOTICES

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<u>Supply Code</u>	<u>Supply Description</u>
80040479	Carrying pocket detach/ea
8004048x	Solid insert back for chairs w/recliners
80040490	Ortho backrest for chairs w/recliners
80040504	IV hanger
80040515	Telescopic IV hanger
80040526	Back upholstery
80040537	Arm slings—"Rancho"
80040548	Arm slings
80040708	Footrest and legrest
80040719	Anti-tipping outrigger
8004072x	Toe loops w/buckle
80040730	Heel rest, metal
08040741	Heel loops
80040752	Heel loops and ankle straps
80040763	Pop up footrest assembly
80040785	Heel strap, 2" leatherette w/buckle
8004080x	Heel strap, 3" hook-on
80040810	Heel strap, 4" hook-on
80040821	Elevating legrest
80040832	Footplate angle adjustment
80040843	Web heel strap
80040854	Heel strap, web, H-type
80040865	Plastic coated footplates
80040876-80040912	Footrest assembly
80040923	Legrest panel
80040934	Anti-tipping
80040945	Quad release
80041202	Wheels & casterstx
80041213	Handrims
80041224	Handrims
80041235	Snap-on handrim covers
80041246	Handrims
80041257-80041304	Hand rims
80041315	Amputee adapter
80041326	8" caster wheels
80041337	8" x 2" pneumatic caster wheels
80041348	Pneumatic caster wheels
80041359	Rubber bumpers
8004136x	Wheels x/24" x 1 3/4" pneumatic tires
80041610	Lever extension
80041621	Attendant operated locks
80041803	Seat accessories
80041814	Seat widened & lowered by uphols
80041825	Seat & back reinforced
80041836	Anti-folding device
80041847	Commode attachment for wheelchairs
80041858	Seat upholstery
80041869	Reduce-a-width
8004187x	Anti-folding device
80042104	1-arm-drive-fx
80042115	Fixed/detach arm—right-hand drive
80099966	His only: prosthetic item
80099977	His only: physiotherapy apparatus
80099988	His only: noncovered items
80099999	His only: misc

<u>Supply Code</u>	<u>Supply Description</u>
8000612x	Catheter insertion try
90006152	Catheter in dwelling, retention
90006265-90006334	Catheter retention
90006345	Catheter, 3-way
90006356	Catheter, 3-way
9001500x	Parenteral administration
90022006	Diabetic supplies
90022017	Diabetic supplies
90024003-90024127	Oxygen
90024240	Oxygen cylinder
90024251	Oxygen liquid
90024262	Oxygen portable
90024273	Oxygen portable
90099986	His only: Non-DME non-covered item
90099997	His only: Non-DME miscellaneous

#### IV. Hearing Aids

In addition to the specific services listed below, services in the following categories require prior authorization:

1. Repairs to hearing aids when the costs of parts and labor exceed the performance agreement limitations.
2. Repairs under the limitations if performed by a hearing aid dealer/servicer in the recipient's home in excess of one visit per year.

<u>Supply Code</u>	<u>Supply Description</u>
V5030	Hearing aid, monaural, body worn aid co
V5040	Hearing aid, monaural, body worn, bone con
V5050	Hearing aid, monaural, in the ear
V5060	Hearing aid, monaural, behind the ear
V5070	Glasses, aid conduction
V5080	Glasses, bone conduction
V5100	Hearing aid, bilateral, body worn
V5120	Hearing aid, binaural, body
V5130	Hearing aid, binaural, in the ear
V5140	Hearing aid, binaural, behind the ear
V5150	Glasses, binaural
V5180	Hearing aid, cros, behind the ear.
V5190	Hearing aid, cros, glasses
V5220	Hearing aid, bicros, behind the ear
V5230	Hearing aid, bicros, glasses
V5299	Hering aid, NOC (single and multi cros A)
X5270	Fitting, dispensing & batteries—only
X5271	Fitting, dispensing, batteries and three visits
9991000	Behind the ear hearing aid
9992000	On the body hearing aid
9993000	In the ear hearing aid
9994000	Eyeglass type hearing aid
99990105	Single cros adaptation
99990207	Bi/multi cros adaptation
99990251	Fitting, dispensing and servicing fee
99990309	Fitting and dispensing only

## OFFICIAL NOTICES

### V. All Other Services

<u>Supply Code</u>	<u>Supply Description</u>
T2031	Bone marrow transplant
T5035	Renal transplant
X0691	Day treatment program, nervous and mental
X2010* <sup>1</sup>	Manual manipulation of the spine by a chiropractor, initial treatment
X2020* <sup>1</sup>	Manual manipulation of the spine by a chiropractor, subsequent treatment
X4020	Private duty nursing by RN
X4021	Private duty nursing by LPN
X7003	DAC services—special needs
00321	TMJ x-rays (left and right)
11920	Tattooing, intradermal introduction of insoluble opaque pigments to correct color defects of skin
11921	6.0 to 20.0 sq cm
11922	each additional 20.0 sq cm
11950	Subcutaneous injection of "filling" material
11951	1 to 5 cc
11952	5 to 10 cc
11954	over 10 cc
15775	Punch graft for hair transplant; 1 to 15 punch grafts
15776	more than 15 punch grafts
15780	Abrasion of skin
15781	less than total face
15782	regional
15786	Abrasion; single lesion
15787	each additional four lesions or less
15790	Superficial chemical peel
15791	regional, face, hand, or elsewhere
15810	Salabrasion
15811	20 sq cm and over
15820	Blepharoplasty, lower eyelid
15821	with extensive herniated fat pad
15822	Blepharoplasty, upper eyelid
15823	with excessive skin weighting down lid
15824	Rhytidectomy; forehead
15826	glabellar frown lines
15828	check, chin and neck
15831	Excision, excessive skin and subcutaneous tissue, abdomen
15832	thigh
15333	leg
15834	hip
15835	buttock
15836	arm
15837	forearm or hand
15838	submental fat pad
17110	Destruction of warts
17360	Chemical exfoliation for acne
17380	Electrolysis epilation
19316	Mastopexy
19318	Reduction mammoplasty
19324	Mammoplasty, augmentation without prosthetic implant
19325	with prosthetic implant
19350	Nipple/areola reconstruction
21010	Arthrotomy, temporomandibular joint; unilateral
21011	bilateral
21050	Arthrectomy, temporomandibular joint, unilateral
21051	bilateral

\*<sup>1</sup> Prior authorization is required for treatments in excess of 6 per month and 24 per calendar year.

<u>Service Code</u>	<u>Service Description</u>
21060	Menisectomy, temporomandibular joint; unilateral
21061	bilateral
21070	Coronoidectomy; unilateral
21071	bilateral
21116	Injection procedure for temporomandibular arthrotomography
21200	Osteoplasty; mandible, total or horizontal
21202	mandible, segmental
21204	maxilla, total
21206	maxilla, segmental
21239	Chin implant
21240	Arthroplasty, temporomandibular joint
21230	Osteoplasty of maxilla and/or other facial bones
21254	with bone graft
21260	Periorbital osteotomies for orbital hypertelorism
21261	combined intra and extracranial approach
21263	with forehead advancement
21267	Orbit repositioning
21268	combined intra and extracranial approach
21270	Reconstruction for Treacher Collins Syndrome
21275	Secondary revision of orbitocraniofacial reconstruction
21462	Open treatment of closed or open mandibular fracture, with inter dental fixation
21480	Uncomplicated treatment of temporomandibular dislocation,
	initial or subsequent
21485	Complicated manipulative treatment of temporomandibular dislocation
21490	Open treatment of temporomandibular dislocation
21499	Unlisted orthopedic procedure, head
30120	Excision or surgical planing of skin of nose
30400	Rhinoplasty, primary
30410	complete
30420	including major septal repair
30430	Rhinoplasty, secondary
30435	intermediate
30450	major revision
33950	Cardiac transplantation
40700	Plastic repair of cleft lip
40701	primary bilateral, one stage
40702	primary bilateral, one of two stages
40720	secondary, unilateral
40740	secondary, bilateral
42200	Palatoplasty for cleft palate
42205	Palatoplasty for cleft palate
42210	with bone graft to alveolar ridge
42215	Palatoplasty for cleft palate
42220	secondary lengthening procedure
42225	attachment pharyngeal flap
43620	Gastrectomy, total
43625	with repair by intestinal transplant
43630	Hemigastrectomy
43635	with vagotomy, any type
43638	Hemigastrectomy, thorocic or abdominal approach
43810	Gastroduodenostomy
43820	Gastrojejunostomy
43825	with vagotomy, any type
43844	Gastric bypass for morbid obesity
43845	Gastric stapling for morbid obesity
43846	Gastric bypass with Roux-en-Y gastroenterostomy

## OFFICIAL NOTICES

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<u>Service Code</u>	<u>Service Description</u>
43850	Revision of gastroduodenal anastomosis with reconstruction; without vagotomy
43865	with vagotomy
44120	Enteronterostomy
44125	with double barrel enterostomy
44130	Enteroenterostomy
44131	intestinal bypass for morbid obesity
50300	Donor nephrectomy, with preparation and maintenance of homograft, from cadaver donor, unilateral or bilateral
50320	from living donor, unilateral
50340	Recipient nephrectomy; unilateral
50341	bilateral
50360	Renal homotransplantation, implantation of graft; excluding donor and recipient nephrectomy
50365	with unilateral recipient nephrectomy
50366	with bilateral recipient nephrectomy
54400	Plastic operation for insertion of penile prosthesis
54405	Plastic operation for insertion of inflatable penile prosthesis
54660	Insertion of testicular prosthesis, penile prosthesis, unilateral
54661	bilateral
55200	Vastomy cannulization
55400	Vasovasostomy, vasovasorrhaphy; unilateral
55401	bilateral
55970	Intersex surgery; male to female
55980	female to male
58310	Artificial insemination
61850	Twist drill or burr hole(s) for implantation of neurostimulator electrodes; cortical
61855	subcortical
61860	Craniectomy or craniotomy for implanaton of neurostimulator electrodes, cerebral; cortical
61865	subcortical
61870	Craniectomy for implantation of neurostimulator electrodes; cerebellar; cortical
61875	subcortical
61880	Revision or removal of intracranial neurostimulator electrodes
61885	Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling
61888	Revision or removal of intracranial neurostimulator receiver
63650	Percutaneous implantation of neurostimulator electrodes
63652	intradural (spinal cord)
63655	Laminectomy for implantation of neurostimulator electrodes
63656	endodural
63657	subdural
63658	spinal cord (dorsal or ventral)
63660	Revision or removal of spinal neurostimulator electrodes
63685	Incision for subcutaneous placement of neurostimulator receiver
63688	Revision or removal of spinal neurostimulator receiver
64550	Application of surface (transcutaneous) neurostimulator
64553	Percutaneous implantation of neurostimulator electrodes; cranial nerve
64555	peripheral nerve
64560	autonomic nerve
64565	neuromuscular
64573	Incision for implantation of neurostimulator electrodes; cranial nerve
64575	peripheral nerve
64577	autonomic nerve
64580	neuromuscular



<u>Service Code</u>	<u>Service Description</u>
64585	Revision or removal of peripheral neurostimulator electrodes
64590	Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling
64595	Revision or removal of peripheral neurostimulator receiver
67801	Repair blepharoptosis, frontalis muscle techniques with suture
67902	frontalis muscle technique with fascial sling
67903	(tarso) levator resection, internal approach
67904	(tarso) levator resection, external approach
67906	superior rectus technique with fascial sling
67907	superior rectus tendon transplant
67911	Correction of lid retraction
69300	Otoplasty, protruding ear
69301	bilateral
70328	Radiologic examination, temporomandibular joint open and closed mouth, unilateral
70330	bilateral
70332	Temporomandibular joint arthrotomography; supervision and interpretation only
70333	complete procedure
85120	Bone marrow transplant
88260	Chromosome analysis; lymphocytes, count 1-4 cells, screening
88261	count 1-4 cells, 1 daryotype
88262	count 1-20 cells for mosaicism, 2 karyotypes
88265	Chromosome analysis; myeloid cells, 2 karyotypes (Philadelphia chromosome)
88267	amniotic fluid, count 1-4 cells, 1 karyotype
88268	skin, count 1-4 cells, 1 karyotype
88270	other tissue cells, count 1-4 cells, 1 karyotype
88280	additional karyotyping
88285	additional cells counted
88299	Unlisted cytogenetic study
90000-90080*2	Office medical services
90100-90160*2	Home medical services
90200-90280*3	Hospital medical services
90300-90370*4	Skilled nursing, intermediate care and long-term care
90400-90470*4	Nursing home, boarding home, domiciliary, or custodial care medical services
90841-90844*5	Psychotherapy
90853*6	Group medical psythotherapy
90899*7	Unlisted psychiatric service or procedure
5216853	Unlisted foot procedure
Code to be announced	Treatment of TMJ disorder

\*2 Prior authorization is only required for podiatry services in excess of three visits per month and 12 visits per calendar year.

\*3 Prior authorization is only required for inpatient chemical dependency treatment (90240), for inpatient pain programs (90260), and for podiatry services in excess of three visits per month and 12 visits per calendar year.

\*4 Prior authorization is only required for podiatry services in excess of three visits per month and 12 visits per calendar year.

\*5 Prior authorization is required for clinical units in excess of 10 per calendar year.

\*6 Prior authorization is required for group therapy in excess of 30 two hour sessions per calendar year.

\*7 Prior authorization is only required for outpatient weight reduction/control programs, partial hospitalization programs, outpatient pain clinic programs and outpatient cardiac rehabilitation programs.

## OFFICIAL NOTICES

### Department of Transportation

#### Goals for Disadvantaged and Women's Business Enterprises for Federal Fiscal Year 1985

The Minnesota Department of Transportation (Mn/DOT) has established a goal of 10% for disadvantaged business enterprises (DBE) and a goal of 2% for women business enterprises (WBE) for all modes of transportation for federal fiscal year 1985 (October 1, 1984, through September 30, 1985).

The goal-setting processes for DBE's and WBE's are separate. The Surface Transportation Assistance Act of 1982 (STAA) required a 10% DBE goal. WBE goals were not required by the STAA; however, Mn/DOT has established a WBE goal of 2% and is committed to provide opportunities for both DBE's and WBE's. Each Mn/DOT project is closely scrutinized and has appropriate goals set to encourage maximum participation by DBE's and WBE's. The locations of the projects, the kinds of work involved on the projects, and the dollar size of the project based on the engineer's estimate are used as criteria in assessing DBE/WBE involvement on transportation construction projects. In this regard, a judgment is being made to enhance maximum opportunity for the participation of DBE's and WBE's by inserting a percentage (usually from 2% to 10%), requiring the contractors to utilize a specific, minimum amount of DBE/WBE participation.

The department's DBE/WBE Plan is available for public inspection during normal business hours (8:00 A.M. to 4:00 P.M.) at Mn/DOT Central Office, Room G20, Transportation Building, John Ireland Boulevard, St. Paul, Minnesota 55155, for 30 days following the date of this notice. Mn/DOT is open for public comment regarding the DBE and WBE goals for 45 days from the date of this notice. The comments are for informational purposes only. Please respond to:

The Minnesota Department of Transportation  
EEO Contract Management Office  
Room G20  
St. Paul, Minnesota 55155

## STATE CONTRACTS

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

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

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779

### Department of Administration Procurement Division

#### Commodities Contracts Currently Open for Bidding

<u>Requisition #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>
55-000-90211	XL Camera (Rebid)	Human Services—Services for the Blind	St. Paul	Contact buyer

# STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
29-000-36302	Snow Groomer Drags	Natural Resources	Various	Contact buyer
24-000-08815, 16 & 17	Purchase of Optical Mark Reader	Employee Relations	St. Paul	Contact buyer
79-900-02850	Water Main Pipe & Valves	Transportation	N. St. Paul	Contact buyer
78-830-07211	Cotton for Mattresses	MN Correctional Facility	St. Cloud	Contact buyer
79-000-44459	Mast Arms	Transportation	St. Paul	Contact buyer
26-071-14600	Purchase of Corbus Hard Disk & Transporter Cards	Mankato State University	Mankato	Contact buyer
79-000-44274	Radio Comm. Shelter	Transportation	Madison	Contact buyer
27-156-43550	Preventative Maint. Contract for AC, HVAC Pneumatic, Electrical Controls	Normandale Community College	Bloomington	Contact buyer
29-003-08072	Tandem Axle Trailer	Natural Resources-Forestry	Brainerd	Contact buyer
26-071-14713	Film Inspector	Mankato State University	Mankato	Contact buyer
32-200-12109	High Volume Air Sample Collection System	Pollution Control Agency	Roseville	Contact buyer
Contract 55-000-90256	Electronic Cable Vending Machines	Various Human Services-Services for the Blind	Various Fridley	15,000-20,000 Contact buyer
77-000-08934	Used Fork Lift	MN Zoological Garden	Apple Valley	Contact buyer
26-072-08969	Sandblasting & Painting	Moorhead State University	Moorhead	Contact buyer
21-200-08485	Purchase of Photocopy Machine	Economic Security	St. Paul	Contact buyer
78-630-06199	Purchase of Photocopy Machine	MN Correctional Facility	St. Paul	Contact buyer
67-260-10208, 3119	Declaration Forms	Revenue	St. Paul	Contact buyer
99-300-27939, 3247	The Impact of the MN Sentencing Guidelines	Sentencing Guidelines	St. Paul	Contact buyer
26-071-14710	TV Production Switcher	Mankato State University	Mankato	Contact buyer
26-071-14714	Large Screen Projection Monitor	Mankato State University	Mankato	Contact buyer
27-152-42916, 2106	Salmagundi Student Newspaper	Anoka Ramsey Community College	Coon Rapids	Contact buyer
67-190-10211, 3144	Income Tax Withholding Table Booklets	Revenue	St. Paul	Contact buyer
55-000-90194, 3265	Eligibility Information	Human Services	St. Paul	Contact buyer
29-002-10276	Timbers	Natural Resources	Ely	Contact buyer
07-700-32077, 2756 Rebid	Printed Envelopes	MN Correctional Facility	St. Cloud	Contact buyer
02-310-13396 Rebid	Expansion Joints	Moose Lake State Hospital	Moose Lake	Contact buyer
55-000-90141	Purchase of Scanner	Human Services-Services for the Blind	St. Paul	Contact buyer
Contract 29-000-36742	Athletic Clothing	Various	Various	Contact buyer
29-000-36812, 3451	Wood Post	Natural Resources	Various	Contact buyer
	Rugged Ringneck of Minnesota	Natural Resources	St. Paul	Contact buyer

## STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
29-000-36849 & 50 3474-& 5 07700-32250	Forest and Trail Maps	Natural Resources	St. Paul	Contact buyer
32-200-12113-14	Traffic Accident Report	Public Safety	St. Paul	Contact buyer
26-070-10672	Purchase of Rainbow Computers	Pollution Control	Roseville	Contact buyer
	Lease/Purch. Comp. Typesetting System	Bemidji State University	Bemidji	Contact buyer

Contact 296-6152 for referral to specific buyers.

## Energy and Economic Development Governor's Council on Rural Development

### Request for Proposals for A Specialty Crop Marketing Plan

The Governor's Council on Rural Development is requesting proposals for a specialty crop marketing study with emphasis on Broccoli, Asparagus and Cauliflower.

The purpose of the study is to—

- (1) Identify fresh wholesale vegetable markets in which Minnesota produce can compete;
- (2) Develop a strategy on how to penetrate these markets and achieve consumer and wholesaler acceptance of Minnesota produce;
- (3) Suggest methods to develop strong business relationships between Minnesota growers and wholesalers in targeted markets; and
- (4) Recommend test markets for Minnesota produce and outline a test market implementation program with involvement of Minnesota fruit and vegetable growers associations.

The Governor's Council on Rural Development has budgeted \$20,000 for this initial Minnesota produce marketing plan. Proposals should be received by MN DEED/GCRD no later than 4:30 p.m. Friday, November 30, 1984. The formal Request for Proposals document may be requested and inquiries should be directed to:

Lori Widmark, Program Manager  
Governor's Council on Rural Development  
Department of Energy & Economic Development  
900 American Center Building  
150 E. Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 297-1968

## Metropolitan Council Comprehensive Planning Department

### Request for Consultant Qualifications to Evaluate the Economic Importance of Commercial Navigation to the Twin Cities Region and the State of Minnesota, Now and in the Future

The Metropolitan Council of the Twin Cities Area is issuing a Request for Qualification (RFQ) for consulting firms to evaluate present and future economic impacts of the commercial navigation industry for the seven-county region and the state. The study will have three primary objectives:

1. Identify current direct and indirect contributions of the commercial navigation industry to the economies of the Seven-County Metropolitan Area and the state.

2. Identify and analyze major factors which are affecting and/or will affect the commercial navigation industry in the region.

3. Project for the region the growth or decline in the volume of products that will be shipped through the commercial navigation system between now and 1990. Best general assessment for 1990-2000 period desirable. Estimate impact on the regional economy.

The estimated cost for this project is \$50,000, and the estimated duration is one year.

The complete text of the RFQ will be made available to all interested parties by writing or calling:

Carl E. Ohrn  
Director, Comprehensive Planning Department  
Metropolitan Council  
300 Metro Square Building  
St. Paul, Minnesota 55101  
Telephone: 612-291-6507

Submittals of Statement of Qualification are to be sealed in mailing envelopes or packages with the firm's name and address clearly written on the outside and received at the above address before 4 p.m. Dec. 3, 1984. Late submittals will not be accepted or considered.

All submittals received by the deadline will be evaluated by the staff of the Metropolitan Council. The Council plans to select the finalists by Jan. 18, 1985. The selected firms may be requested to submit a proposal detailing its approach to the study and to interview with the Council staff in order to arrive at a final decision. All submittals become the property of the Metropolitan Council and will not be returned.

## **Pollution Control Agency Solid and Hazardous Waste Division**

### **Request for Proposals for Contractual Services to Conduct an Inventory, Initial Sampling, and Routine Monitoring of Wells Potentially Impacted by a Former Wood Treating Plant**

The Minnesota Pollution Control Agency (MPCA) is seeking proposals from qualified engineering consultants/contractors to accomplish the above work. The project has been designed to include the following tasks:

1. Well Inventory—to locate all wells (private and public) potentially affected by contamination moving from the Boise Cascade/Onan/Medtronic site (former pole treating facility) in Fridley, Minnesota. The search area is bounded by: County Road I/Osborne Road on the north; Silver Lake Road on the east; Rice Creek Road/61st Avenue on the south; and the Mississippi River on the west.

2. Initial Well Sampling—utilizing the information obtained in the well inventory, select a representative subset of wells for an initial sampling.

3. Develop a Routine Monitoring Program—utilizing the information obtained in the initial well sampling, develop a routine monitoring program for the search area.

The projected duration of the contract is one (1) year with an execution date anticipated for January 30, 1985. Services will be offered by the contractor on a mutually agreed upon timeline. Funding for this project has been provided exclusively under the Environmental Response and Liability Act (Minnesota Superfund Act), Minn. Laws 1983, Ch. 121. The contract cost of the entire project will not exceed \$25,000.

The Request for Proposal (RFP) document may be obtained from and other inquiries should be directed to:

Larry A. Livesay, Project Leader  
Minnesota Pollution Control Agency  
Division of Solid and Hazardous Waste  
1935 West County Road B-2  
Roseville, Minnesota 55113  
Phone: 612/296-7715

The deadline for receipt of completed proposals is 5:00 p.m., on Friday, November 30, 1984. Proposals should be submitted to the attention of the above MPCA contact person. Late submittals will not be accepted.

# SUPREME COURT

## Decisions of the Supreme Court Filed October 19, 1984

Compiled by Wayne O. Tschimperle, Clerk

**C4-83-1084** *Mona Lee Glassmann, Appellant, et al., v. Craig Richard Miller, et al. Beltrami County.*

The notice of claim provision of the Municipal Tort Claims Act, Minn. Stat. § 466.05, subd. 1 (1982), violates equal protection guarantees because it creates a jurisdictional obstacle for victims of municipal torts not encountered by victims of torts committed by the State.

Reversed. Todd, J.

Concurring Specially, Scott, J., & Kelley, J.

**C2-83-936, C5-83-1207, CX-83-1381** *Horace Mann Insurance Company v. Independent School District No. 656 and Fireman's Fund Insurance Company, Appellants (C2-83-936, C5-83-1207); Security Insurance Company; Eugene J. Crosby, Guardian Ad Litem for R.L.E., et al., Appellants (CX-83-1381) Michael Phillips. Rice County.*

A general liability insurance policy containing an "intentional damages" exclusion precludes a duty to defend and indemnify an insured adult public school teacher who allegedly had sexual contact with one of his minor students.

When an adult school teacher and counselor engages in behavior of repeated sexual contacts with a minor student, an intent to cause bodily injury may be inferred as a matter of law to preclude coverage under a homeowner's insurance policy.

The general liability insurer of a school district has no obligation to defend an employee of the district nor to indemnify him for any judgment that might be entered based upon claims against the teacher-counselor because he engaged in sexual contact with a minor student.

When a teacher is sued for behavior allegedly causing damages which occurred in the course and scope of his employment, the school district has an absolute statutory duty to defend him.

A school district owes no duty to indemnify a teacher or other employee guilty of malfeasance or willful or wanton neglect of duty.

Affirmed in part; reversed in part. Kelley, J.

## Order Filed October 10, 1984

**C1-83-863** *In the Matter of the Application for the Discipline of Camelia J. Casby, an Attorney at Law of the State of Minnesota. Supreme Court.*

Publicly reprimanded. Amdahl, C.J.

## Order Filed October 15, 1984

**CO-84-1142** *In the Matter of the Application for the Discipline of David J. Carey, an Attorney at Law of the State of Minnesota. Supreme Court.*

Suspended. Amdahl, C.J.

## ERRATA

### Commerce Department

#### Proposed Rules Governing Credit Unions

Two misprints occurred in the Table of Contents, page 791, of the October 22, 1984 issue of the *State Register*. Both occurred in the Commerce Department listing under Proposed Rules. The item incorrectly listed the name and page number of the rule as:

Proposed Rules Governing Credit Units ..... [pg]802

The correct title and page number are:

Commerce Department

Proposed Rules Governing Credit Unions ..... [pg]816

The page number cited for the rules (Rule numbers 2675.6100. . . . .6301) as listed on page 793, Minnesota Rules Amendments and Additions, was correctly cited as page 816.

## **Energy and Economic Development Department Energy and Economic Development Authority**

### **Proposed Rules Governing School Energy Conservation Investment Loans**

#### **Notice of Intent to Adopt Rules without a Public Hearing**

An incomplete address was inadvertently printed in the October 22, 1984 issue of the *State Register*, page 823. Persons who wish to obtain copies of the notice of intent to adopt the above rules or the Statement of Need and Reasonableness concerning the rules, or who wish to submit comments, should submit comments and requests to:

Jeremy de Fiebre  
Energy Finance Division  
Department of Energy and Economic Development  
900 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 297-1221

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