

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

our file 532

Please file - It was in the wrong file

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Lee S. Sheehy
Special Assistant
Attorney General

DATE: November 2, 1979

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 296-2418

SUBJECT: Rule 43

It has come to our attention that a typographical error is contained in the copies of adopted Rule 43 submitted to your office. The error is contained in Section D.6 and is in the citation to the Minnesota Administrative Procedures Act. Please correct this error before you file the Rule with the Secretary of State. Thank you very much for your help.

ECD/rmm

RECEIVED
NOV 6 197
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

ADMIN. Our File No: 532

STATE OF MINNESOTA

DEPARTMENT: Attorney General

Office Memorandum

TO : ARTHUR E. NOOT
Commissioner of Welfare

DATE: November 5, 1979

Attn: Ellen Dubuque
Special Assistant Attorney General

FROM : Lee E. Sheehy
Special Assistant
Attorney General

PHONE: 296-1238

SUBJECT: Rules as Approved ~~In~~ the Matter of the Proposed Adoption of Rule 43 of the Department of Public Welfare Governing Standards of Outpatient Treatment Program For People With Alcohol and Other Drug Problems.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

LES/dw
Enclosure
cc: Duane Harves
Marshall Whitlock

Our File # 532

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 8-8-79 Temporary Rule _____

Resubmitted and Received 10-26-79

DUE DATE 8-28-79 - 11-5-79

a. Returned to Agency w/o filing w/Secy of State 8/27
b. Approved 11/5 Date Sent Back to Agency 8-27

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N.A.
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable N.A.
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N.A.
17. Petition by Public, where applicable N.A.

ADOPTED RULE

MINN. DPW RULE 43: Standards For Outpatient Treatment Programs For People With Alcohol & Other Drug Problems.

A. Statutory Citation.

This rule is promulgated pursuant to Minn. Stat. §§ 62A.149, 245.781-. 813, 254A.02, subd. 2, 254A.03, subd. 1 and 254A.10.

B. Statement of Purpose.

The purpose of this rule is to establish a basis for approving or licensing outpatient treatment programs for people with alcohol and other drug problems.

C. Definitions.

1. Applicant: any person, agency or organization applying for a license or renewal license under this rule.

2. Client: an individual whose physical, social or psychological status allows ~~them~~ him/her to function in the~~ir~~ usual community environment, but whose alcohol and/or drug related behavior causes problems to himself/herself and/or others in the home, employment or community setting and who is receiving services in an outpatient treatment program covered by this rule. This may include the family of and/or others significant to that person.

3. Commissioner: the Commissioner of the Department of Public Welfare or a designated representative of the Commissioner.

4. Department: the Department of Public Welfare.

5. License: the certificate issued by the Commissioner that validates compliance with this rule, and authorizes the applicant to operate an ~~non-residential~~ outpatient treatment program.

6. Program Director: the applicant staff member responsible for planning, implementing and directing the operation of all aspects of the program.

7. Direct Counseling Staff: all staff employed by the facility and who provide treatment and/or related services to clients.

8. Outpatient Treatment Program: a treatment program with a defined regimen serving at one time 5 or more persons experiencing problems related to alcohol or other drugs for the main purpose of providing primary or post-primary treatment care. The regimen must provide a minimum of 10 hours of total service time scheduled at a minimum of 1 hour per week and must provide time-limited therapeutic services on a non-residential basis employing individual treatment plans to clients.

   Programs not covered by this rule are those whose primary functions are: Information and Referral, Diagnosis, Education, Support Group Services, Self-Help Groups.

D. Licensure.

1. No outpatient treatment program shall operate without a current and valid license or provisional license to operate in the State of Minnesota. The license shall prescribe the person or organization operating the program and the location of the program.

2. Outpatient treatment programs which are housed within a hospital, licensed by the Department of Health are excluded from these regulations under Minnesota Statutes 245.791 (1977 supp), but the program has <u>the</u> option of voluntarily seeking ~~licensure or~~ approval if it is requested.

3. ~~Every~~ All existing outpatient treatment programs must apply to the Commissioner within 60 days of the effective date of this rule and comply with the provisions of the Rule to obtain and maintain a license. New programs must obtain a license prior to accepting clients. Application for renewal of license shall be made 45 days prior to the date of expiration. Application and re-application shall be made on forms furnished by the Commissioner.

4. An initial license shall be valid for up to one year after the date of issuance. A renewal license may be issued for up to two (2) years at the discretion of the Commissioner. A license may not be transferred from one ~~program~~ operator to another or from one primary location to another.

5. Every applicant shall be furnished with a copy of this rule.

6. If the Commissioner determines that the applicant or the ~~license holder~~ operator is not complying with the provisions of this rule, the license may be denied, revoked, suspended, made probationary or not renewed after notice to the applicant or ~~license holder~~ operator. The deniral, revocation, suspension, probation, or failure to renew shall proceed in accordance with the provisons of applicable Minnesota laws and ~~regulations~~ rules. The applicant or operator shall, in any appeal of the Commissioner's determination, use procedures authorized by Minnesota Statutes, § ~~15.041 .0426~~ 15.0411- 15.0426, the State Administrative Procedures Act.

By [illegible] per agency memo 11-5-79

7. Prior to the issuance of a license or provisional license, the following steps shall be completed:

   a. ~~The need for the program shall be the determination of the Area Board/Human Service Board. Documentation explaining the basis for the determination must be submitted to the Commissioner.~~

The Commissioner shall determine the need for the program based in part on a recommendation which shall be obtained from the Area Board/Human Service Board. The recommendation on need from the Board shall be accompanied by documentation explaining the basis for determination.

b. A completed application shall be submitted to the Commissioner prior to issuance of a license from the Department of Public Welfare.

c. The fee for license shall be paid to the Commissioner.

8. Licensing policies and procedure shall be available to the public.

9. ~~A specific regulation may be waived for not more than one year at one time with the approval of the Commissioner, provided that the health and safety of the clients is assured. The granting of a waiver will be considered individually on its merits.~~ If a determination is made that all applicable laws, rules, and regulations cannot be met immediately, consideration of a provisional license shall be in accordance with the provisions of Minn.Stat. § 245.783, subd.3.

10. Each applicant must provide assurance that no person shall be discriminated against in relation to admission, discharge or treatment on the basis of sex, race, creed, color, national origin, religion, disability, or sexual preference.

11. All facilities where ~~non-residential~~ outpatient treatment programs are conducted must meet all applicable local and state codes relative to fire, safety, building zoning and health standards, and documentation of that must be provided prior to granting a license.

E. Right to Entry.

~~1.~~ Authorized representatives of the Commissioner may visit the program at any time during the hours of operation for purposes of licensing study and inspection. Inspections may be made without prior notice to the applicant and program director.

F. Confidentiality.

1. No information regarding a client shall be released to any person or agency, except pursuant to applicable state and federal regulations.

   a. There shall be a written plan describing methods and procedures used to ensure confidentiality of case records.

   b. This written plan shall include but not be limited to methods and procedures for release of information to and obtaining information from outside agencies and resources, as governed by appropriate state or federal statute regulations.

G. Minimum Standards for Issuance of a License to an Outpatient Treatment ~~Non-Residential~~ Program.

1. Governing and Advisory Boards

   a. Each outpatient treatment program must ~~have~~ be responsible to a governing body, or to an Area Board/Human Service Board which directly operates an outpatient treatment program. The governing body must have ~~with~~ written documentation of its source of authority ~~and~~ which the governing body, directly or through its legal representative:

      (1) Is legally and financially responsible for the operation of the program or agency.

      (2) Operates the program in compliance with all appropriate state and federal laws.

      (3) Approves all ~~The~~ additions or deletions of services provided by the program which affects the implementation of the individualized treatment plans; additions or deletions must be submitted for approval to the Commissioner within 60 days after implementation.

(4) Documents the adoption of a schedule of meetings and attendance requirements, and shall keep minutes of all meetings.

(5) Provides accessibility of all policies and procedures mandated in this rule to all staff.

(6) Reviews and approves fiscal plan on an annual basis to include review and approval of annual operating budget, fee schedule, and annual audit.

(7) Reviews and approves all revisions to the fiscal plan.

b. Each outpatient treatment program must have an advisory board which consists of at least 5 members and:

(1) Provides a system for client input regarding the program.

(2) Provides a system for community input regarding the program.

(3) Has at least one community representative as a member who has no other affiliation with the program.

(4) Includes a former participant of the program or some other outpatient treatment program as defined by this rule.

(5) Provides input to governing board and direction to program director regarding all additions or deletions of services provided by the program which affects the implementation of the individualized treatment plans.

c. The program director must as a minimum make written quarterly reports to the governing body or its legal representative and the advisory board and shall not be an official member of either the governing body or the advisory board.

d. Any governing body which elects not to have an advisory board must itself meet the requirements for a governing board and an advisory board as specified in G.1 a & b.

2. Director - every outpatient program shall have a director who shall:

   a. Be at least 18 years of age.

   b. Document three years of general work experience in administration and/or personnel supervision, and (1) at least one year experience in direct service to persons with alcohol and other drug problems or (2) one year of experience in the management or administration of direct services to people with alcohol or other drug problems; or document holding of Bachelor's Degree and (1) at least one year experience in direct service to persons with alcohol and other drug problems or (2) one year of experience in the management or administration of direct services to people with alcohol or other drug problems.

   c. Have no current problems related to alcohol or other drugs which negatively affects his/her job or program performance.

3. Staffing Requirements

   a. Programs must demonstrate staffing capability to provide services at the levels identified within the program plan. To this end the following minimal requirements must be satisfied:

      (1) For each 1 hour of individual, group or family unit counseling and each admission and discharge interview, a minimum of 1.25 hours of counselor time must be allocated.

   b. Direct counseling staff must be at least 18 years of age.

   c. Staff must not have current problems related to alcohol or other drugs which negatively affects ~~his/her~~ their job or performance.

d. Direct counseling staff must have at least one year experience/or education in behavioral health or human services.

e. Direct counseling staff must have at least 1 year supervised clinical experience in an residential primary treatment, outpatient treatment or aftercare setting.

f. Personnel files of all direct counseling staff must include documentation of individual competencies in the following areas:

(1) Designing individualized treatment plans based on the needs of each client.

(2) Conducting an assessment interview and listing the client's specific strengths and problems related to chemical use, physical and emotional functioning, family and other cultural issues.

(3) Implementing individualized treatment plans utilizing internal and/or external program services including: vocational, education, spiritual, family, financial, recreational, health, legal, chemical.

(4) Maintaining client recordkeeping systems.

(5) Developing evaluative outcome criteria for each problem area identified in the individualized treatment plan.

(6) Identifying the variety of chemical use problems that exist in the community to be served by the program:

(a) Pharmacological and behavioral effects of various chemicals.

(b) Age and cultural aspects.

(c) Short and long term treatment implications of a & b above.

(7) ~~All documentation must be included in each staff personnel file.~~ Staff may be subject to an interview by the licensing authority regarding documentation.

g. Volunteers acting as direct counseling staff must meet the requirements of Section G.3.

4. Personnel Policies - the original application and all renewal applications shall describe the nature and extent of the training and qualifications of the staff and shall include a description of the staff organization, which defines the roles and responsibilities of all personnel and lines of authority.

a. The applicant shall maintain personnel policies including: job descriptions, qualifications, performance and evaluation standards, remuneration and fringe benefits for each staff position. These policies shall include procedures governing hiring, suspension, dismissal, assignment, promotion, grievance procedures, and other appropriate policies. Performance reviews of staff including the Director, shall be made at least annually.

b. These written policies shall be maintained and communicated to the staff, prospective staff, and volunteers of the program. Policies shall be reviewed and updated annually.

c. These policies shall be implemented without prejudice regarding sex, race, creed, color, national origin, religion, disability, or sexual preference and include an affirmative action plan.

5. Medical Services

   a. Documentation of availability of a licensed physician and/or nurse practitioner or registered nurse for necessary medical care, emergency medical services, and medical reporting for all clients of the program.

   b. Documentation of availability of Board-certified or Board-eligible Psychiatrist and/or Licensed Consulting Psychologist who shall provide at the discretion of the director, when needed, psychiatric and psychological evaluation services for clients admitted to the program.

   c. Prescription medication when administered on the premises of the program shall be administered by qualified personnel as specified by the Minnesota Department of Health.

6. Staff Development - each program shall provide documentation of a written staff development program for direct service and supervisory personnel. There shall be a minimum of 12 hours/year for each full time equivalent staff. The program shall include orientation and training of all staff, continuing development of staff skills and abilities through a defined in-service program and/or participation in other training programs. If volunteers are utilized, they shall be included in staff development programs. The person responsible for the staff development program shall be identified. This plan shall be reviewed annually.

7. Evaluation - all programs shall develop procedures to monitor how well their program's administration and service goals (See G 8.b.) are being met.

a. For each objective specified in the application, there shall be a separate procedure for monitoring progress towards reaching that objective. These procedures shall be specified to the Department at time of application.

b. For each objective specified in the application, there shall be a separate statement of actual progress made towards reaching the objective, determined by using the procedure specified above. These statements of actual progress shall be submitted to the Department with the application for renewal of license.

c. Program shall submit information to the Commissioner for evaluative purposes upon request.

d. Program shall provide documentation verifying integration of evaluation outcomes into the program operation.

8. Administration and Management - every outpatient treatment program shall have written administrative and management policies governing the administration and supervision of the operations, the program and the duration of the program. Such documentation shall include:

a. A written plan describing the program's philosophy, organization and role of supervisory personnel.

b. Administration and service goals and objectives for the operation of the program.

c. Policies and criteria for admission and discharge, including a definition of when a client is considered active in the program. The admission procedure shall include:

(1) A description of the process by which a client is accepted or rejected by the program and disposition of client if not accepted.

(2) A procedure for determining the necessity of a medical evaluation, which is developed in conjunction with a physician, ~~or a~~ nurse practitioner, or registered nurse. Procedures for determining the necessity of the psychological evaluation shall be developed in conjunction with the consultant required under Section G.5b.

(3) Assessment that includes the chemical use history, a psycho-social history including utilization of relevent human services, cultural background, vocational and educational history, family relationships, socio-economic status and determination of current physical and emotional state.

d. A written description of program design and methodology.

e. A written delineation of the inter-relationship of the program and other appropriate public and private service providers.

f. The program must develop an annualized projection of individual and/or family counseling hours, group counseling hours, admission and discharge interviews and discharge and/or aftercare planning to be provided by the program. Program must also develop annualized projection of counseling hours available to provide these services based on number of staff positions and equivalent counselor time (See G.3.a (1)). Annual projections of service hours and equivalent counselor time must be reviewed, updated and submitted to the Commissioner with each application for renewal.

g. A written procedure for the provision of services required by individual clients which are unavailable in the program.

h. The program shall have a written referral policy and procedure for client referral between the program's components and/or between the program and other community service providers which includes:

(1) Conditions under which referrals are made.

(2) Means by which the program will assist in the referral of those individuals who are seeking services that the program does not provide.

(3) Documentation of at least one contact with the referral agency within a designated time period.

(4) Current and confidential log of all referrals that the program initiates and receives.

i. An individual record for each client of the program which includes:

(1) Demographic characteristics of the client, including age, sex, ethnic/cultural group, income, method of payment and source of referral into the program.

(2) Documentation of determination of the necessity of a physical and/or psychological assessment and the resulting referral when appropriate.

(3) Documentation of a psycho-social assessment, which shall include the nature and history of the client's chemical use, the nature and history of the problems associated with the client's chemical use, and the nature and history of

the client's previous contacts with chemical dependency services, mental health services, the criminal justice system, or other social, vocational, educational or financial services.

(4) A written individual treatment plan which identifies client needs and problems, based on the psycho-social assessment, and if deemed necessary, the medical evaluation which:

(a) Specifies services planned for meeting the client's needs.

(b) Includes referrals for services not available within the program.

(c) Describes the client's participation in development of the treatment plan, and is signed by the client and a staff member.

(d) Documents progress and changes at least weekly.

(5) All entries must be legible, dated and signed.

(6) Written consent of the client or guardian for any release of information to persons not otherwise authorized to receive it pursuant with state and federal regulations.

(7) Documentation, signed by the client, that he/she has received a copy of the program rules~~,~~ and the client's rights~~,~~ and responsibilities while participating in the program.

(8) A discharge summary which evaluates the client's progress toward goals and objectives set forth in the treatment plan and describes the joint program/client's plans for

future activities to maintain effective functioning and the program's plans for follow-up of the aftercare plan.

(9) Each program shall provide a written individualized aftercare/discharge plan for each client which is designed to establish continuing contact, ensure utilization of other appropriate resources in the community, and record progress against pre-stated goals.

j. Follow-up data, obtained within 3-6 months after the client discontinues the program (those who are either discharged at completion of the program, and those who leave the program before completion), shall be collected from no less than 50 clients drawn randomly, or 100% of the discontinued clients, whichever number is less, served in the 12 months since issuance or last renewal of the license. Documentation of efforts to locate clients for follow-up shall be made on a client by client basis. Follow-up contacts should ascertain, for each client, (1) the client's present chemical use patterns; (2) whether problems originally associated with the client's chemical use are improved or have become worse; (3) whether the client is engaged in appropriate post-treatment activities or lifestyles which are consistent with the client's treatment and/or discharge plan; (4) whether the client needs or wants additional services. The follow-up collection procedure should permit quarterly summarization of data for all clients.

k. At the time of application for licensure renewal, the applicant shall submit a report to include a summary of data collected pursuant to section G.8j.

l. Financial records including an annual budget, records of income and expenditures, fee policies, and record of an annual audit. New programs must document in writing assurances of funding sufficient to meet total projected program costs and start-up costs if any, for a period of at least one year.

m. Records shall be kept on a continuing basis that accurately reflect the number and dates of clients accepted and rejected, number and dates of clients discharged, length of service and what happens to clients upon leaving the program. Such records shall be furnished to the Commissioner upon request. Such records shall be kept for a minimum period of five years for ongoing programs or for one year for defunct programs.

n. Written documentation of general liability insurance coverage in an amount sufficient to protect the interests of the clients and staff.

o. A description of the methods by which clients' legal, civil, and human rights will be protected. This shall include the procedures for handling complaints and grievances by clients, their relative, and/or guardians. A written copy of such rights and procedures shall be given to each client entering the program and posted in a prominent place.

(1) The program shall have a written statement of its policies and practices for handling cases of neglect and abuse of its clients.

(2) The risks associated with the use of any therapeutic procedures shall be fully explained to the ~~patient~~ client in terms he/she can understand.

9. Outpatient treatment programs serving adolescents must meet the above requirements and in addition each program must:

~~(1)~~ a. Provide a written rationale for its approach to the treatment of adolescents, demonstrating that within the context of its adult/adolescent population, the program can provide appropriate services to adolescent clients.

~~(2)~~ b. Provide counselor(s) with knowledge in adolescent chemical dependency behavior, adolescent behavior, and direct counseling experience with adolescents. Personnel files of these counselors must document that the qualifications and expertise of identified staff is sufficient to meet the needs of the clients.

~~(3)~~ c. Provide for each 1 hour of individual, group, or family unit counseling and each admission and discharge interview, a minimum of 1.5 hours of counselor time must be allocated. This section supersedes section G.3 (1) above.

~~(4)~~ d. Provide inservice training of direct counseling staff in areas specific to the treatment of chemically dependent adolescents, including training on incest, sexual and physical abuse, family dynamics, independent living skills, habilitation vs. rehabilitation, experimentation, and decision making.

~~(5)~~ e. Document attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment

process. If, despite reasonable effort, participation of a functioning family or family surrogate unit cannot be obtained or if the client chooses not to permit their involvement, it is then the obligation of the program to involve the anticipated provider of aftercare services in discharge planning.

~~(6)~~ f. Document appropriate educational opportunities. Treatment and discharge planning must occur in coordination with the client's ongoing educational setting. The program ~~must provide or contract with~~ shall assist in identifying to responsible educational facilities the client's need for Special Learning and Behavior Problem teachers, tutors, class room teaching, vocational education, etc., as appropriate.

~~(7)~~ g. Provide treatment, literature, lectures, etc. which are easily comprehendible to, and appropriate for the age level of adolescents ~~served~~.

~~(8)~~ h. Provide a recreational rehabilitation program to clients. Activities should be planned to develop constructive leisure time activity skills and should be documented in each individualized treatment plan.

~~(9)~~ i. Develop a discharge plan which reflects consideration of aftercare provisions unique to adolescents to include leisure time, education, specialized adolescent services, role of family or family surrogate. The plan should be developed cooperatively by the client, program staff, referring agency, family (or surrogate) and the anticipated provider of aftercare services (when appropriate), and signed by the client.

H. Severability.

If any provisions of the rule as adopted by the Commissioner of Public Welfare are found to be unreasonable or not supported by the evidence, the remaining provisions shall remain valid.

APPROVED AS TO FORM AND LEGALITY
NOV. 5 1979 19____
WARREN SPANNAUS, ATTORNEY GENERAL
BY Jan E. Shurley
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV - 5 1979
Joan Anderson Growe
Secretary of State

11:00 a.m.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Lee E. Sheehy
Special Assistant
Attorney General

DATE: August 28, 1979

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 296-2418

SUBJECT: Rule 43

Subsequent to submission of adopted Rule 43 to your office, the Department discovered two typographical errors in the Rule. Please note and change the following sections:

1. Rule 43, D.2, line 3 (second page of Rule): The word "regulation" should have been changed to "rule" pursuant to the Report of the Hearing Examiner, Finding 12.

2. Rule 43, D.6, line 10 (third page of Rule): The statutory cite should be "Minn. Stat. § 15.0411."

Please call if you have problems with these changes.

ECD/rm

RECEIVED
AUG 29 19
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

ADOPTED RULE #1 draft

MINN. DPW RULE 43: Standards For Outpatient Treatment Programs For People With Alcohol & Other Drug Problems.

A. Statutory Citation.

This rule is promulgated pursuant to Minn. Stat. §§ 62A.149, 245.781-. 813, 254A.02, subd. 2, 254A.03, subd. 1 and 254A.10.

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3. Commissioner: the Commissioner of the Department of Public Welfare or a designated representative of the Commissioner.

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3. ~~Every~~ All existing outpatient treatment programs must apply to the Commissioner within 60 days of the effective date of this rule and comply with the provisions of the Rule to obtain and maintain a license. New programs must obtain a license prior to accepting clients. Application for renewal of license shall be made 45 days prior to the date of expiration. Application and re-application shall be made on forms furnished by the Commissioner.

4. An initial license shall be valid for up to one year after the date of issuance. A renewal license may be issued for up to two (2) years at the discretion of the Commissioner. A license may not be transferred from one ~~program~~ operator to another or from one primary location to another.

5. Every applicant shall be furnished with a copy of this rule.

6. If the Commissioner determines that the applicant or the ~~license holder~~ operator is not complying with the provisions of this rule, the license may be denied, revoked, suspended, made probationary or not renewed after notice to the applicant or ~~license holder~~ operator. The denial, revocation, suspension, probation, or failure to renew shall proceed in accordance with the provisions of applicable Minnesota laws and ~~regulations~~ rules. The applicant or operator shall, in any appeal of the Commissioner's determination, use procedures authorized by Minnesota Statutes, §§ 15.041-.0426, the State Administrative Procedures Act.

incorrect cite - typo.

7. Prior to the issuance of a license or provisional license, the following steps shall be completed:

M.S. 245.812, Subd. 2
M.S. 245.783, Subd 3, last sentence
Due process?

a. The need for the program shall be the determination of the Area Board/Human Service Board. Documentation explaining the basis for the determination must be submitted to the Commissioner.

b. A completed application shall be submitted to the Commissioner prior to issuance of a license from the Department of Public Welfare.

c. The fee for license shall be paid to the Commissioner.

8. Licensing policies and procedures shall be available to the public.

what exist beyond rules?

9. A specific regulation may be waived for not more than one year at one time with the approval of the Commissioner, provided that the health and safety of the clients is assured. The granting of a waiver will be considered individually on its merits.

245.783, Subd 3

10. Each applicant must provide assurance that no person shall be discriminated against in relation to admission, discharge or treatment on the basis of sex, race, creed, color, national origin, religion, disability, or sexual preference.

M.S. 254A.02, Subd 15, which was Subd 24 was adopted, subsequently removed.

11. All facilities where ~~non-residential~~ outpatient treatment programs are conducted must meet all applicable local and state codes relative to fire, safety, building zoning and health standards, and documentation of that must be provided prior to granting a license.

Chp. 125, 1976 Session, § 19, Subd. 2

E. Right to Entry.

1. Authorized representatives of the Commissioner may visit the program at any time during the hours of operation for purposes of licensing study and inspection. Inspections may be made without prior notice to the applicant and program director.

Warrantless search

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1. No information regarding a client shall be released to any person or agency, except pursuant to applicable state and federal regulations.

   a. There shall be a written plan describing methods and procedures used to ensure confidentiality of case records.

   b. This written plan shall include but not be limited to methods and procedures for release of information to and obtaining information from outside agencies and resources, as governed by appropriate state or federal statute regulations.

G. Minimum Standards for Issuance of a License to an Outpatient Treatment ~~Non-Residential~~ Program.

1. Governing and Advisory Boards

   a. Each outpatient treatment program must ~~have~~ be responsible to a governing body, or to an Area Board/Human Service Board which directly operates an outpatient treatment program. The governing body must have ~~with~~ written documentation of its source of authority ~~and~~ which the governing body, directly or through its legal representative:

      (1) Is legally and financially responsible for the operation of the program or agency.

      (2) Operates the program in compliance with all appropriate state and federal laws.

      (3) Approves all ~~The~~ additions or deletions of services provided by the program which affects the implementation of the individualized treatment plans; additions or deletions must be submitted for approval to the Commissioner within 60 days after implementation.

(4) Documents the adoption of a schedule of meetings and attendance requirements, and shall keep minutes of all meetings.

(5) Provides accessibility of all policies and procedures mandated in this rule to all staff.

(6) Reviews and approves fiscal plan on an annual basis to include review and approval of annual operating budget, fee schedule, and annual audit.

(7) Reviews and approves all revisions to the fiscal plan.

b. Each outpatient treatment program must have an advisory board which consists of at least 5 members and:

(1) Provides a system for client input regarding the program.

(2) Provides a system for community input regarding the program.

(3) Has at least one community representative as a member who has no other affiliation with the program.

(4) Includes a former participant of the program or some other outpatient treatment program as defined by this rule.

(5) Provides input to governing board and direction to program director regarding all additions or deletions of services provided by the program which affects the implementation of the individualized treatment plans.

c. The program director must as a minimum make written quarterly reports to the governing body or its legal representative and the advisory board and shall not be an official member of either the governing body or the advisory board.

d. Any governing body which elects not to have an advisory board must itself meet the requirements for a governing board and an advisory board as specified in G.1 a & b.

2. Director - every outpatient program shall have a director who shall:

   a. Be at least 18 years of age.

   b. Document three years of general work experience in administration and/or personnel supervision, and (1) at least one year experience in direct service to persons with alcohol and other drug problems or (2) one year of experience in the management or administration of direct services to people with alcohol or other drug problems; or document holding of Bachelor's Degree and (1) at least one year experience in direct service to persons with alcohol and other drug problems or (2) one year of experience in the management or administration of direct services to people with alcohol or other drug problems.

   c. Have no current problems related to alcohol or other drugs which negatively affects his/her job or program performance.

3. Staffing Requirements

   a. Programs must demonstrate staffing capability to provide services at the levels identified within the program plan. To this end the following minimal requirements must be satisfied:

      (1) For each 1 hour of individual, group or family unit counseling and each admission and discharge interview, a minimum of 1.25 hours of counselor time must be allocated.

   b. Direct counseling staff must be at least 18 years of age.

   c. Staff must not have current problems related to alcohol or other drugs which negatively affects ~~his/her~~ their job or performance.

d. Direct counseling staff must have at least one year experience/or education in behavioral health or human services.

e. Direct counseling staff must have at least 1 year supervised clinical experience in an residential primary treatment, outpatient treatment or aftercare setting.

f. Personnel files of all direct counseling staff must include documentation of individual competencies in the following areas:

(1) Designing individualized treatment plans based on the needs of each client.

(2) Conducting an assessment interview and listing the client's specific strengths and problems related to chemical use, physical and emotional functioning, family and other cultural issues.

(3) Implementing individualized treatment plans utilizing internal and/or external program services including: vocational, education, spiritual, family, financial, recreational, health, legal, chemical.

(4) Maintaining client recordkeeping systems.

(5) Developing evaluative outcome criteria for each problem area identified in the individualized treatment plan.

(6) Identifying the variety of chemical use problems that exist in the community to be served by the program:

(a) Pharmacological and behavioral effects of various chemicals.

(b) Age and cultural aspects.

(c) Short and long term treatment implications of a & b above.

(7) ~~All documentation must be included in each staff personnel file.~~ Staff may be subject to an interview by the licensing authority regarding documentation.

g. Volunteers acting as direct counseling staff must meet the requirements of Section G.3.

4. Personnel Policies - the original application and all renewal applications shall describe the nature and extent of the training and qualifications of the staff and shall include a description of the staff organization, which defines the roles and responsibilities of all personnel and lines of authority.

a. The applicant shall maintain personnel policies including: job descriptions, qualifications, performance and evaluation standards, remuneration and fringe benefits for each staff position. These policies shall include procedures governing hiring, suspension, dismissal, assignment, promotion, grievance procedures, and other appropriate policies. Performance reviews of staff including the Director, shall be made at least annually.

b. These written policies shall be maintained and communicated to the staff, prospective staff, and volunteers of the program. Policies shall be reviewed and updated annually.

c. These policies shall be implemented without prejudice regarding sex, race, creed, color, national origin, religion, disability, or sexual preference and include an affirmative action plan.

5. Medical Services

   a. Documentation of availability of a licensed physician and/or nurse practitioner or registered nurse for necessary medical care, emergency medical services, and medical reporting for all clients of the program.

   b. Documentation of availability of Board-certified or Board-eligible Psychiatrist and/or Licensed Consulting Psychologist who shall provide at the discretion of the director, when needed, psychiatric and psychological evaluation services for clients admitted to the program.

   c. Prescription medication when administered on the premises of the program shall be administered by qualified personnel as specified by the Minnesota Department of Health.

6. Staff Development - each program shall provide documentation of a written staff development program for direct service and supervisory personnel. There shall be a minimum of 12 hours/year for each full time equivalent staff. The program shall include orientation and training of all staff, continuing development of staff skills and abilities through a defined in-service program and/or participation in other training programs. If volunteers are utilized, they shall be included in staff development programs. The person responsible for the staff development program shall be identified. This plan shall be reviewed annually.

7. Evaluation - all programs shall develop procedures to monitor how well their program's administration and service goals (See G 8.b.) are being met.

a. For each objective specified in the application, there shall be a separate procedure for monitoring progress towards reaching that objective. These procedures shall be specified to the Department at time of application.

b. For each objective specified in the application, there shall be a separate statement of actual progress made towards reaching the objective, determined by using the procedure specified above. These statements of actual progress shall be submitted to the Department with the application for renewal of license.

c. Program shall submit information to the Commissioner for evaluative purposes upon request.

d. Program shall provide documentation verifying integration of evaluation outcomes into the program operation.

8. Administration and Management - every outpatient treatment program shall have written administrative and management policies governing the administration and supervision of the operations, the program and the duration of the program. Such documentation shall include:

a. A written plan describing the program's philosophy, organization and role of supervisory personnel.

b. Administration and service goals and objectives for the operation of the program.

c. Policies and criteria for admission and discharge, including a definition of when a client is considered active in the program. The admission procedure shall include:

(1) A description of the process by which a client is accepted or rejected by the program and disposition of client if not accepted.

(2) A procedure for determining the necessity of a medical evaluation, which is developed in conjunction with a physician, ~~or a~~ nurse practitioner, or registered nurse. Procedures for determining the necessity of the psychological evaluation shall be developed in conjunction with the consultant required under Section G.5b.

(3) Assessment that includes the chemical use history, a psycho-social history including utilization of relevent human services, cultural background, vocational and educational history, family relationships, socio-economic status and determination of current physical and emotional state.

d. A written description of program design and methodology.

e. A written delineation of the inter-relationship of the program and other appropriate public and private service providers.

f. The program must develop an annualized projection of individual and/or family counseling hours, group counseling hours, admission and discharge interviews and discharge and/or aftercare planning to be provided by the program. Program must also develop annualized projection of counseling hours available to provide these services based on number of staff positions and equivalent counselor time (See G.3.a (1)). Annual projections of service hours and equivalent counselor time must be reviewed, updated and submitted to the Commissioner with each application for renewal.

g. A written procedure for the provision of services required by individual clients which are unavailable in the program.

h. The program shall have a written referral policy and procedure for client referral between the program's components and/or between the program and other community service providers which includes:

(1) Conditions under which referrals are made.

(2) Means by which the program will assist in the referral of those individuals who are seeking services that the program does not provide.

(3) Documentation of at least one contact with the referral agency within a designated time period.

(4) Current and confidential log of all referrals that the program initiates and receives.

i. An individual record for each client of the program which includes:

(1) Demographic characteristics of the client, including age, sex, ethnic/cultural group, income, method of payment and source of referral into the program.

(2) Documentation of determination of the necessity of a physical and/or psychological assessment and the resulting referral when appropriate.

(3) Documentation of a psycho-social assessment, which shall include the nature and history of the client's chemical use, the nature and history of the problems associated with the client's chemical use, and the nature and history of

the client's previous contacts with chemical dependency services, mental health services, the criminal justice system, or other social, vocational, educational or financial services.

(4) A written individual treatment plan which identifies client needs and problems, based on the psycho-social assessment, and if deemed necessary, the medical evaluation which:

(a) Specifies services planned for meeting the client's needs.

(b) Includes referrals for services not available within the program.

(c) Describes the client's participation in development of the treatment plan, and is signed by the client and a staff member.

(d) Documents progress and changes at least weekly.

(5) All entries must be legible, dated and signed.

(6) Written consent of the client or guardian for any release of information to persons not otherwise authorized to receive it pursuant with state and federal regulations.

(7) Documentation, signed by the client, that he/she has received a copy of the program rules~~,~~ and the client's rights~~,~~ and responsibilities while participating in the program.

(8) A discharge summary which evaluates the client's progress toward goals and objectives set forth in the treatment plan and describes the joint program/client's plans for

future activities to maintain effective functioning and the program's plans for follow-up of the aftercare plan.

(9) Each program shall provide a written individualized aftercare/discharge plan for each client which is designed to establish continuing contact, ensure utilization of other appropriate resources in the community, and record progress against pre-stated goals.

j. Follow-up data, obtained within 3-6 months after the client discontinues the program (those who are either discharged at completion of the program, and those who leave the program before completion), shall be collected from no less than 50 clients drawn randomly, or 100% of the discontinued clients, whichever number is less, served in the 12 months since issuance or last renewal of the license. Documentation of efforts to locate clients for follow-up shall be made on a client by client basis. Follow-up contacts should ascertain, for each client, (1) the client's present chemical use patterns; (2) whether problems originally associated with the client's chemical use are improved or have become worse; (3) whether the client is engaged in appropriate post-treatment activities or lifestyles which are consistent with the client's treatment and/or discharge plan; (4) whether the client needs or wants additional services. The follow-up collection procedure should permit quarterly summarization of data for all clients.

k. At the time of application for licensure renewal, the applicant shall submit a report to include a summary of data collected pursuant to section G.8j.

l. Financial records including an annual budget, records of income and expenditures, fee policies, and record of an annual audit. New programs must document in writing assurances of funding sufficient to meet total projected program costs and start-up costs if any, for a period of at least one year.

m. Records shall be kept on a continuing basis that accurately reflect the number and dates of clients accepted and rejected, number and dates of clients discharged, length of service and what happens to clients upon leaving the program. Such records shall be furnished to the Commissioner upon request. Such records shall be kept for a minimum period of five years for ongoing programs or for one year for defunct programs.

n. Written documentation of general liability insurance coverage in an amount sufficient to protect the interests of the clients and staff.

o. A description of the methods by which clients' legal, civil, and human rights will be protected. This shall include the procedures for handling complaints and grievances by clients, their relative, and/or guardians. A written copy of such rights and procedures shall be given to each client entering the program and posted in a prominent place.

(1) The program shall have a written statement of its policies and practices for handling cases of neglect and abuse of its clients.

(2) The risks associated with the use of any therapeutic procedures shall be fully explained to the ~~patient~~ client in terms he/she can understand.

9. Outpatient treatment programs serving adolescents must meet the above requirements and in addition each program must:

~~(1)~~ a. Provide a written rationale for its approach to the treatment of adolescents, demonstrating that within the context of its adult/adolescent population, the program can provide appropriate services to adolescent clients.

~~(2)~~ b. Provide counselor(s) with knowledge in adolescent chemical dependency behavior, adolescent behavior, and direct counseling experience with adolescents. Personnel files of these counselors must document that the qualifications and expertise of identified staff is sufficient to meet the needs of the clients.

~~(3)~~ c. Provide for each 1 hour of individual, group, or family unit counseling and each admission and discharge interview, a minimum of 1.5 hours of counselor time must be allocated. This section supersedes section G.3 (1) above.

~~(4)~~ d. Provide inservice training of direct counseling staff in areas specific to the treatment of chemically dependent adolescents, including training on incest, sexual and physical abuse, family dynamics, independent living skills, habilitation vs. rehabilitation, experimentation, and decision making.

~~(5)~~ e. Document attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment

process. If, despite reasonable effort, participation of a functioning family or family surrogate unit cannot be obtained or if the client chooses not to permit their involvement, it is then the obligation of the program to involve the anticipated provider of aftercare services in discharge planning.

~~(6)~~ f. Document appropriate educational opportunities. Treatment and discharge planning must occur in coordination with the client's ongoing educational setting. The program ~~must provide or contract with~~ shall assist in identifying to responsible educational facilities the client's need for Special Learning and Behavior Problem teachers, tutors, class room teaching, vocational education, etc., as appropriate.

~~(7)~~ g. Provide treatment, literature, lectures, etc. which are easily comprehendible to, and appropriate for the age level of adolescents serviced.

~~(8)~~ h. Provide a recreational rehabilitation program to clients. Activities should be planned to develop constructive leisure time activity skills and should be documented in each individualized treatment plan.

~~(9)~~ i. Develop a discharge plan which reflects consideration of aftercare provisions unique to adolescents to include leisure time, education, specialized adolescent services, role of family or family surrogate. The plan should be developed cooperatively by the client, program staff, referring agency, family (or surrogate) and the anticipated provider of aftercare services (when appropriate), and signed by the client.

H. Severability.

If any provisions of the rule as adopted by the Commissioner of Public Welfare are found to be unreasonable or not supported by the evidence, the remaining provisions shall remain valid.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Lee S. Sheehy
Special Assistant
Attorney General

DATE: October 23, 1979

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 6-2418

SUBJECT: DPW Rule 43

Enclosed are copies of the documents accompanying adopted Rule 43 and the rule itself.

The changes made in response to your disapproval of the rule have been ruled insubstantial by the Chief Hearing Examiner. Please let me know if you have any further problems.

ECD/rmm
Enclosures

P.S. I'll be out of town until Nov. 15
Ellen Dubuque

P.S. We have also sent notice of our resubmittal of the rule to your office. The miscellaneous section contains the letter we sent and the affidavit of mailing

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ARTHUR E. NOOT
Commissioner of Welfare

DATE: August 27, 1979

Attention: Ellen Dubuque
Special Assistant Attorney General

FROM : LEE E. SHEEHY
Special Assistant Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of the Proposed Adoption of Rule 43 of the Department of Public Welfare Governing Standards of Out-Patient Treatment Program For People With Alcohol and Other Drug Problems.

The above-captioned rules have not been approved by this office for the reasons enumerated below. After consideration of these reasons and appropriate action, if any, the rules may be resubmitted to this office. At that time, please insure that the original of the Order Adopting and the adopted rules accompany the documents which are resubmitted.

The rules have not been approved for the following reasons:

1. Minn. Stat. § 245.783, Subd. 3, sets forth the legislatively mandated criteria and procedures for the granting of provisional licenses and the waiving of rules relating to licensure matters. Proposed Rule 43 B (9) appears to vary the procedure and criteria for the granting of such provisional licenses. Among others, it uses the word "may" where the statute uses the word "shall." In addition, it creates a concept of "waiver" which goes beyond the legislatively mandated procedure for handling such matters. As such, the rule is improper. The Department, of course, could reference the statutory provision relating to provisional licenses in its rules if it wishes.

2. Proposed rule 43 D (7) (a) appears to delegate the need determination to a local Area Board/Human Service Board. Yet the Department's Statement of Need and other information from the Department indicates that the department intended that only a need recommendation be obtained from the local Board and that the Commissioner retain final authority in making such a determination. This intention seems in keeping with the statutory framework as set forth in Minn. Stat. §§ 245.783, Subd. 3 and 245.812, Subd. 2. The department must demonstrate the statutory authority for delegation of a need determination to local boards or revise the rule.

PRINTED ON RECYCLED PAPER

This office also wishes to remind the Department that the "policies and procedures" discussed in rule 43 D (8) must be promulgated under the Minnesota APA unless otherwise specifically excepted.

If you have any questions, do not hesitate to contact me.

LES/bw
cc: Duane Harves
Marshall Whitlock
Melvin B. Goldberg

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR E. NOOT

COMMISSIONER OF PUBLIC WELFARE

In The Matter Of The Proposed Adoption of Rule 43 Of The Department Of Public Welfare Governing Standards For Out-Patient Treatment Programs For People With Alcohol And Other Drug Problems.	ORDER ADOPTING RULE

The above-entitled matter was heard before Hearing Examiner Natalie L. Gaull, of the State Office of Hearing Examiners on April 24, 1978, in Room 83, State Office Building, after proper notice as required by Minn. Stat. § 15.0412, subd. 4 (1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

At said hearing the proposed Rule 43 as published at 2 State Register 1755 was considered. The following persons testified for the Department of Public Welfare: Christine Heath, Cheryl Nyhus, Warren D. Stortroen, Phil Carlson, Robert Haven, Harry Swift, and Larry Fonnest. The hearing continued until all interested groups and persons had an opportunity to be heard. Pursuant to order of the Hearing Examiner, the record was held open for twenty (20) days for the submission of written material.

Based upon all the records and proceedings, the Hearing Examiner made Findings of Fact, Conclusions and a Recommendation which are contained in the Report to the Hearing Examiner dated June 8, 1978. Said Report is attached hereto as Exhibit 1.

Pursuant to the requirements of Minn. Stat. S 15,0412, subd. 4 (1978) said Report was available to all affected persons for at least five (5) days.

Having considered all the evidence adduced and upon the records, files and proceedings herein and applicable statutory standards and criteria, and having confirmed the need for the above captioned Rule and the reasonableness thereof,

NOW THEREFORE, IT IS ORDERED,

That the Findings, Conclusions and Recommendation of the Hearing Examiner, as contained in the Report of the Hearing Examiner, are, with additional and/or substitute Findings made below, hereby adopted and incorporated herein.

The Findings of Fact of the Hearing Examiner are enumerated 1 through 24 in her Report. The Commissioner accepts these Findings but makes additional comments to Findings 6, 9, 12, 14, 23. The Commissioner accepts the Hearing Examiner's Conclusion and Recommendation.

The Commissioner of Welfare, based upon all the records and proceedings herein, makes the following:

FINDINGS OF FACT

1. In Hearing Examiner Finding 6, the Hearing Examiner stated that Minn. Stat. § 62A.149, subd. 1 does not, by itself, vest authority in the Commissioner of Public Welfare to promulgate this rule. It is the Commissioner's Finding that Minn. Stat. § 62A.149, subd. 1, together with Minn. Stat. § 245.781-.813, the Public Welfare Licensing Act, vests sufficient authority in him to promulgate this Rule.

2. This Finding concerns Section C. 2. of Rule 43. This Section governs the definition of the word "client" for purposes of Rule 43. The Hearing Examiner, in her Finding 9, found that the language "and or others significant to that person" was extremely vague and would be difficult to administer. The Hearing Examiner further states that she "understands the intent of the Department in including persons to whom the client may not have a legal relationship, but with whom there may be a close relationship . . . ." She strongly urges that the Department delete the language or find a more specific designation for "a significant other." The Commissioner disagrees that the proposed language is too vague. The term "significant other" is a term of general use in contemporary society. An attempt to further define such other persons would result in a possible frustration of the very intent of this section of the Rule, that is, to include in the definition of client not only the person who has a chemical dependency problem but those for whom it makes therapeutic sense to include in the treatment context. Such a definition would not be difficult to administer, but in fact, would allow treatment decisions to be made by the counseling staff. For these reasons, the Commissioner finds that paragraph C. 2. of the Rule, as originally proposed, is necessary, reasonable and in conformance with state statute.

3. Hearing Examiner Finding 12 addresses Section D. 6. and suggests that a specific reference be made to the Minn. Stat. Ch. 15 appeal mechanism available to applicants and licenses. The Commissioner finds that such a reference would clarify this section yet not create a substantial change. Therefore, the Commissioner finds that the following sentence shall be added to Section D. 6. of the Rule:

> The applicant or operator shall, in any appeal of the Commissioner's determination, use procedures authorized by Minnesota Statutes, §§ 15.041-.0426, the State Administrative Procedures Act.

The Hearing Examiner also found that the word "regulation" should be changed to "rule" because 1975 amendments to the Minnesota APA substitutes "rule" for "regulation." The Commissioner agrees and so changes.

4. Hearing Examiner Finding 14 addresses Section E. of the rule and suggests that Marshall v. Barlow's, Inc., ____U.S. ____, 98 S.Ct. 1816 (1978) might have some effect on this provision. The Commissioner finds that Section E. should stand as is since it is not governed by the cited case. The Hearing Examiner further suggested that the number "1." be deleted from paragraph "E." The Commissioner agrees and orders it deleted.

5. In her Finding 23, the Hearing Examiner suggested a changing in wording in Section G. 8. m. from "of" to "for" in the following sentence:

> Such records shall be kept ~~of~~ for a minimum period of five years for ongoing programs or for one year for defunct.

The Commissioner agrees since the original word constitutes inadvertent error, and the substitute word does not constitute a substantial change.

6. Subsequent to the Hearing, the Department discovered a number of sections of the proposed Rule which were either ungrammatical, contained awkward or imprecise language, or, in some other way, required minor changes which would not substantially change the meaning of the Section of the Rule but which would

clarify it. The Commissioner now finds that the following changes shall be made and that these changes are not substantial and are reasonable and necessary to clarify the Rule:

a. Line 2 of C.2 shall be amended to read:

status allows ~~them~~ him/her to function in ~~their~~ usual community.

b. Line 6 of C.2. shall be amended to read:

services in an outpatient treatment program covered by this rule.

c. Line 3 of C.5. shall be amended to read:

to operate an ~~non-residential~~ outpatient treatment program.

d. Line 2 of D.6. shall be amended to read:

~~license-holder~~ operator is not complying with the provisions of

e. Line 5 of D.6. shall be amended to read:

~~license-holder~~ operator. The denial, revocation, suspension,

f. Line 1 of G.1.a. shall be amended to read:

Each outpatient treatment program must be responsible to a governing body,

g. Line 1 of G.1.b. shall be amended to read:

Each outpatient treatment program must have an advisory board

h. Line 2 of G.1.b. (4) shall be amended to read:

outpatient treatment program as defined by this rule.

i. Line 2 of G.3.c. shall be amended to read:

other drugs which negatively affects ~~his/her~~ their job or

j. Line 1 of G.3.f. (6)(c) shall be amended to read:

Short and long term treatment implications.

k. Line 4 of G.4. shall be amended to read:

of the staff organization, which defines the roles and responsibilities

m. Line 5 of G.4.a. shall be amended to read:

hiring, suspension, dismissal, assignment, promotion, grievance.

n. Line 1 of G.5.a. shall be amended to read:

Documentation of availability of a licensed physician and/or

o. Lines 2 & 3 of G.8.i.(7) shall be amended to read:

received a copy of the program rules, and the client's rights, and responsibilities while participating in the program

p. Line 3 of G.8.m. shall be amended to read:

number & dates of clients discharged, length of service

q. Line 6 of G.8.m. shall be amended to read:

Such records shall be kept for a minimum period of five years for ongoing programs or for one year for defunct programs.

r. Lines 2 & 3 of G.8.o. (2) shall be amended to read:

procedures shall be fully explained to the ~~patient~~ client in terms he/she can understand.

s. Line 3 of G.9.g. shall be amended to read:

of adolescents serviced.

IT IS FURTHER ORDERED, that this Rule identified as Rule 43 of the Rules of the Minnesota Department of Public Welfare is adopted this 19 day of July, 1979, and after this day Rule 43 shall read in its entirety as set forth in the attached Exhibit 2 pursuant to the authority vested in me, and pursuant to Minn. Stat. Chapters 15, 62A, 245, and 254A.

Dated:

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Arthur E. Noot
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE #43

STATEMENT OF NEED

The above captioned rule is a new rule setting forth minimum standards for outpatient treatment programs for people with alcohol and other drug problems. The chemical dependency treatment continuum includes both a highly structured, well developed system of residential programs and loosely structured, unregulated system of care such as self-help groups like Alcoholics Anonymous. Outpatient treatment programs fill the gap between the highly structured residential programs and the minimally structured self-help groups. In order to assure that such outpatient treatment programs meet the needs of, and protect the rights of people in need of such services, DPW Rule 43 has been developed and is proposed.

A. Statutory Citation

Minnesota Statute 62A.149 mandates insurance coverage for treatment of chemical dependency in outpatient treatment programs approved or licensed by the State of Minnesota. Minnesota Statute 245.781-.813 is the Public Welfare Licensing Act regulating the provision of care and services for chemically dependent people and others in either day care or residential programs. Minnesota Statutes 254A.02, Subd. 2, 254A.03, Subd. 1 and 254A.10 define "approved treatment program", create an alcohol and drug abuse section in the Department of Public Welfare, and authorize the Commissioner of the Department of Public Welfare to promulgate rules and implement laws pursuant to the Administrative Procedures Act.

B. Statement of Purpose

In order to carry out the purpose of the legislation cited above it is necessary and reasonable to have a rule providing the basis for approving and licensing outpatient treatment programs for people with alcohol and other drug problems.

The balance of this statement of need supports the need for and reasonableness of the policy and procedural provisions contained in proposed Rule 43.

C. Definitions

Definitions of commonly used terms used in this rule are reasonable and necessary to give a common understanding to the language used in the rule for both Department representatives and service providers.

D. Licensure

1. In order to assure uniformity of standards and quality of patient care conforming to minimum requirements, it is necessary and reasonable that no outpatient treatment program operate without a current and valid license or provisional license. In order to assure that the person or organization responsible for the operation of theprogram has been designated and that the location of the program has been established, it is necessary that this information be contained in the license.

2. This provision is necessary and reasonable to assure consistency between this rule and Minnesota Statutes 245.791, which exempts private hospitals from licensure by the Department of Public Welfare. It is, however, reasonable that the Department license or approve outpatient treatment programs within a private hospital if the hospital requests such action.

3. A reasonable period of time is necessary to allow outpatient treatment programs to apply for licensure under this proposed rule. To allow adequate time and yet prevent the possibility of programs operating indefinitely without a license, sixty days has been established as a reasonable period of time to apply to the Commissioner and establish compliance with the provisions of this rule. Moreover, by requiring applications for renewal of licenses at least 45 days prior to the date of expiration, the Department has an opportunity to review the compliance history of a program and to schedule licensing surveys prior to the date of license expiration. Having the Commissioner furnish forms assures standardization.

4. It is the experience of the Department of Public Welfare's Licensing Division that programs initially seeking licensure usually have larger and more numerous problems during the first year than they do thereafter. Consequently the initial license will be valid for up to one year thereby allowing the Department to survey the program for compliance twice within an initial 12 month period, both at the time the license is initially issued and one year later when the program applies for renewal. The Commissioner when has the discretion of issuing a license for up to two years to those programs having little or no difficulty complying with the rule. Licenses are

not transferable because conditions can vary greatly from one program to another; a license issued under the circumstances present at one program may not be valid or appropriate to conditions present at another program.

5. Without having an opportunity to review this rule, applicants are not likely to understand the licensing criteria or be aware of compliance issues. Therefore, every applicant shall be furnished a copy of this rule.

6. Because conditions in a program can change from the date of survey to some time thereafter and because the basic purpose of this rule is to assure that minimum program standards are met continuously, it is necessary that the Commissioner be able to deny, revoke, suspend or not renew a license in the event of non-compliance, pursuant to the Public Welfare Licensing Act.

7a. It is necessary for a determination of need to be made in order to avoid oversaturation of service providers. The area boards/human service boards have mandated responsibility for the planning and coordination of chemical dependency services and are the most appropriate body to make such a determination on the local level. To assure that such determination of need is supported by adequate rationale, the rule requires that a statement of the basis for the determination be submitted to the Commissioner who will review the rationale.

7b. It is necessary and reasonable that completed applications be submitted to the Commissioner prior to issuance of a license to insure that the program, through documentation, is in compliance with the rule.

7c. The most appropriate person to whom fees should be paid is the Commissioner because the overall licensing activity is the responsibility of the Commissioner.

8. To assist the general public and potential program personnel in becoming aware of the criteria on which outpatient programs for people with alcohol and other drug problems are allowed to operate, all licensing policies and procedures will be available to the general public.

9. In the event that special circumstances are present which should prevent an otherwise adequate program from providing services, it is necessary and reasonable to allow for a time limited waiver of a specific regulation to be determined on a case by case basis.

10. This requirement is necessary to assure compliance with local, state and federal regulations relating to non-discrimination.

11. This requirement is necessary to assure compliance with all applicable local and state rules relating to facilities.

E. Right to Entry

1. In order to assure that the Department's perception of program operations is based upon the usual and customary operation of the program, it is necessary and reasonable to allow the Commissioner to visit the program at any time during regular hours of operation and, if the Commissioner so chooses, without prior notice to the applicant and program director.

F. Confidentiality

1. Requirements under this section of the proposed rule are necessary and reasonable to assure compliance with applicable state and federal laws regarding confidentiality.

a. It is necessary and reasonable to require a written plan of compliance with appropriate laws to insure that all staff understand the procedures to be used in the program and to insure that the procedures are sufficient to guarantee the confidentiality of all information concerning the clients.

b. Any information regarding a client must be kept strictly confidential. The communication of information regarding clients is one of the most flagrant violations of the confidentiality regulations. It is therefore necessary and reasonable that this rule stress the importance of this regulation.

G. Minimum Standards for Issuance of a License to a Non-Residential Program

1. Governing and Advisory Boards

a. It is necessary and reasonable to require a program to have a clearly defined governing authority which can be held accountable to the Commissioner for the provision of services in compliance with this rule. In order for the governing authority to assure compliance to the Commissioner it is reasonable and necessary that:

1. It be legally and financially responsible;

2. It operates its program in accordance with all appropriate laws;

3. It inform the Commissioner of major changes to the program because these changes could affect the basis on which the license was originally granted;

4. It have accessible procedure for making and reporting decisions regarding G.1. a. 1, 2, 3, above;

5. Staff who have been delegated responsibility for compliance with this rule must have all policies and procedures available to them;

6. It approve the annual fiscal plan in order that the allocation of resources is sufficient to ensure compliance with this rule;

7. The revisions will maintain compliance with the rule.

b. It has been demonstrated to the Commissioner, through the licensing of residential treatment programs under DPW Rule 35, which mandates an advisory board, that advisory boards regularly express to the governing authority the interests of clients and community. Therefore, it is reasonable and necessary that:

1. The clients have a mechanism which allows the opportunity to express concerns regarding their treatment;

2. The community have mechanism which allows it to provide feedback and how the program is affecting the community;

3. At least one representative will have no personal or financial involvement in the program which may bias their input;

4. At least one member have been an actual consumer of such a program to reflect the implications for clients of actions under consideration;

5. The governing authority and program director receive input on the impact of changes in program services on clients and community.

c. In order to establish a documented chronicle of program activities and assure that the governing board and advisory board are sufficiently aware of program activities it is reasonable and necessary that written reports regarding the ongoing operation of the program, be prepared and submitted by the program director on at least a quarterly basis. It is also reasonable that the director should not be an official member of either board because she/he must take direction and supervision from the boards.

d. Based on b. above, it is necessary and reasonable that the function of the advisory board be maintained; any governing authority electing not to have an advisory board must itself perform those functions.

2. Director

To assure that the policies developed by the governing authority with input from the advisory board are put into practice, it is necessary and reasonable to designate a single source of responsibility and authority, namely, a program director.

a. Because a large number of legal transactions can only be carried out by a person who has reached the age of majority it is necessary and reasonable that the director be at least 18 years of age.

b. The program director is responsible for implementing the policies and procedures of the governing authority it is necessary and reasonable that he/she have experience sufficient to meet the demands of the program. The collective experience of Task Force for Proposed Rules and Regulations for Licensure of Day Care (Outpatient) Alcohol and Drug Programs (Rule 43 Task Force), determined these minimal requirements.

c. Because all persons in positions of authority in programs serving people with alcohol or other drug problems may be viewed as role models by the patients it is necessary and reasonable that the director not have current problems related to alcohol or other drugs which negatively affect job or program performance.

3. Staffing Requirements

a. To meet the standards set forth herein certain staffing requirements must be met.

1. In order to document in each clients file the information required by this rule, it is reasonable and necessary to require sufficient staff time to perform that function. The amount of time deemed as sufficient was developed by the Rule 43 Task Force.

b. It is necessary and reasonable that all direct counseling staff or the legal age of majority in order that they may be held legally responsible for their professional behavior.

c. Because all staff in these programs may be perceived to be role models by the patients, it is necessary and reasonable that staff not have current problems relating to alcohol and other drugs which negatively affect job performance.

d. To assure minimum quality of care, direct counseling staff must have at least one year experience or education in behavioral health or human services.

e. It was the determination of Department staff in consultation with administrators in the field, that one year supervised clinical experience is reasonable and necessary to provide outpatient services in accordance with generally accepted counseling standards.

f. It is reasonable that the Commissioner require documentation that direct counseling staff have the competencies necessary to meet the requirements of this rule.

Therefore it is reasonable that the following information be obtained for all direct counseling staff.

1. In order to implement section G.8.i.(4) it is necessary that direct counseling staff have documentation of training or experience in designing individualized treatment plans.

2. In order to implement sections G.8.i.(1)(2)(3) it is necessary that direct counseling staff have documentation of knowledge in how to assess clients problems.

3. In order to implement sections G.8.i.(4) and (8) it is necessary that direct counseling staff be able to determine what internal and external services may be needed to implement an individualized program plan which adequately meets the needs of the client and to develop a discharge and aftercare program which utilizes all appropriate community support systems.

4. In order to implement sections G.8.i.(4)(5) and (8) it is necessary that direct counseling staff have skills to appropriately document information in each client file.

5. In order to implement sections G.8.i.(4) and (8) it is necessary that direct counseling staff be able to determine when and if clients are achieving their goals as specified in each individualized program plan and discharge plan to determine if the treatment is meeting the needs of the clients.

6. In order to implement sections G.8.i.(3) and (4) it is necessary that direct counseling staff be able to be aware of various chemicals and the clients expected psychological reactions, which can affect the type of treatment plan to be developed.

7. In order to assure that the competencies documented in the individual personnel file are accurate it is reasonable and necessary that representatives of the Commissioner have the right to interview individual staff members.

4. Personnel Policies

It has been the experience of DPW Licensing Division with Rule 35 for residential treatment programs, that programs serving clients need to have personnel policies to insure rights of employees who may advocate for program changes or client's rights. These policies also communicate to the dorector the governing authority's policies for sections G.1.a.(5); G.2.a, b, c; G.3.a-f, of this rule. In addition:

a. Personnel policies are necessary and reasonable to conduct the business of the treatment program as they are required by the Joint Commission on Accreditation of Hospitals and DPW Licensing Division.

b. In order to facilitate the consistent application of these personnel policies it is necessary and reasonable that all policies are communicated to those currently affected by them. These policies need to be reviewed annually to adequately reflect the program and staffing changes.

c. To assure that the best qualified personnel staff the program and to comply with local, state and federal statutes, it is necessary and reasonable that all personnel policies be implemented without prejudice.

5a. The effect of alcohol or other drug abuse on the human body has been proven to be harmful therefore admission procedure includes a procedure for determining the necessity of a medical evaluation (G.8.c.(2)). If staff determine that a medical evaluation is needed it is necessary and reasonable that each program have available appropriate medical services.

5b. Alcohol and other drug abuse is frequently accompanied by emotional and behavior problems which extend beyond the identified chemical problem; therefore it is necessary and reasonable that each program have available qualified professionals to provide such evaluations based on the staff initial screening.

5c. It is necessary and reasonable that any medication administered by staff on the premises be done so by qualified personnel in compliance with Minnesota Laws and regulations.

6. Staff Development

It is reasonable and necessary to require all outpatient direct service staff to participate in a staff development program in order to facilitate assimilation of new knowledge into the provision of service within the programs. The Rule 43 Task Force determined that an average minimum hours would be one

per month or 12 hours per year. The plan needs to be reviewed annually because the information and topics presented will change as new information is made available.

7. Evaluation

a& In order to insure compliance with the intent, purpose and
b. specifics of this rule with regard to quality of care, it is reasonable and necessary that measurements be established for all objectives and reports submitted regularly on the measureable progress toward the accomplishment of those objectives.

c. In order to assure that the level of care is consistent throughout the entire licensure period it may be appropriate or necessary to survey the program during this time interval. It is therefore reasonable and necessary for the program to provide the information upon request.

d. When evaluation data indicates modifications in the programs service delivery, it is necessary that documentation be available verifying the integration of evaluation outcome into the program's ongoing operation in order to achieve the maximum quality of care.

8. Administration and Management

a. A written program philosophy is necessary and reasonable to inform the Commissioner, clients, and potential clients of the nature and intent of the program and to insure that the philosophy is consistent with the level of service to be provided. If clients perceive that their treatment is not consistent with their perception of the programs philosophy it is necessary and reasonable that there exist an organizational plan including the role of supervisory personnel to facilitate a grievance procedure.

b. Because of the above stated need for program evaluation, it is necessary and reasonable that each program have administration and service goals and objectives upon which to be evaluated.

c. In order to assure that the program neither rejects persons in violation of applicable public laws nor accepts people for whom it is not qualified to render services, it is necessary and reasonable that admissions and discharge policies and criteria be clearly delineated in writing.

1. Acceptance or rejection criteria must be clearly stated to determine consistency between actual operation and the program's philosophy.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of Rule 43 of the Department of Public Welfare Governing Standards for Outpatient Treatment Programs for People with Alcohol and Other Drug Problems.	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION

The above-entitled matter came on for hearing before Natalie L. Gaull, duly appointed as Hearing Examiner in this matter, on April 24, 1978, in Room 83, State Office Building, Saint Paul, Minnesota 55155, at 9:30 a.m.

This proceeding is a rules hearing held pursuant to Minn. Stat. Ch. 15, to determine whether the proposed rule should be adopted. Copies of this Report are available for review from the Department of Public Welfare and from the Office of Hearing Examiners. Members of the agency panel included: Cheryl Nyhus; Christine Heath; Paul Zerby, Assistant Attorney General; and Ellen Dubuque, Special Assistant Attorney General. During their agency presentation, the Department also called as witnesses the following: Warren D. Stortroen, Regional Claims Manager, Bankers Life Company; Phil Carlson, Senior Research Analyst, Minnesota Blue Cross-Blue Shield; Robert Haven, Director, Twin Town Treatment Center; Harry Swift, Director, Hazelden Foundation; and Larry Fonnest, Joint Accreditation and Standard Specialist, Hazelden Foundation. Forty-one persons were present at the hearing and signed the register. Thirteen persons spoke at the hearing. Approximately twelve written comments were received by the Examiner subsequent to the issuance of the Order for Hearing and prior to the close of the record.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On March 15, 1978, the Department filed the following documents with the Chief Hearing Examiner:

(a) A Notice of Hearing.

2. On March 29, 1978, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The proposed rule;
(d) The Statement of Need;
(e) The Statement of Evidence;
(f) Affidavit of Receipt of the Secretary of State's list;
(g) Certificate of Delivery of the Secretary of State's list;
(h) Affidavit of Mailing;
(i) Affidavit of Additional Mailing; and
(j) A list containing the names of all persons whose names appeared on the Secretary of State's list and on the supplementary list.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

3. On March 20, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 1755.

4. On March 17, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State and to all persons listed on the supplementary list.

5. The record remained open through May 15, 1978, for the receipt of written comments and statements.

6. The Department has cited as authority for the proposed rule Minn. Stat. §§ 62A.149; 245.781 - .813; 254A.02, subd. 2; 254A.03, subd. 1; and 254A.10.

Minn. Stat. § 62A.149, subd. 1, provides that insurance companies must provide coverage for treatment of chemical dependency, alcoholism or drug addiction in a non-residential treatment program approved or licensed by the State of Minnesota. The Examiner finds that while this section may provide some motiviation for adoption of the proposed rule, it does not vest authority in the Commissioner of Public Welfare to promulgate such a rule.

Minn. Stat. § 245.781 - .813, also known as the Public Welfare Licensing Act, regulates the provision of care and services to persons including those who are chemically dependent. Minn. Stat. § 245.802 (1976), specifically provides that:

> The commissioner shall develop and promulgate rules and regulations pursuant to chapter 15 for the operation of day care and residential facilities and agencies and for granting, suspending, revoking and making licenses probationary. . . .

It should be noted that these sections do not specifically pertain to outpatient treatment programs for the chemically dependent. However, such power of licensure can be implied from these sections plus those to be discussed later.

Minn. Stat. § 254A., subd. 2, defines an approved treatment program. Minn. Stat. § 254A.03, subd. 1, creates a section on alcohol and other drug abuse within the Department of Public Welfare and permits that section to establish a state plan setting forth goals and priorities within a comprehensive alcohol and other drug dependency and abuse program for Minnesota. Minn. Stat. § 254A.10 states, in relevant part, as follows:

The commissioner of public welfare pursuant to the Administrative Procedures Act shall promulgate rules to implement Laws 1973, Chapter 572.

The Examiner finds that the combined effect of those sections from Minn. Stat. Ch. 245 and 254A. establishes sufficient authority in the Commissioner of Public Welfare to promulgate the proposed rules.

7. At the hearing, the Department proposed the following changes to the proposed rule:

(a) Section D.2. Outpatient treatment programs which are housed within a hospital licensed by the Department of Health are excluded from these regulations under Minn. Stat. § 245.791 (1977 Supp.), but the program has the option of voluntarily seeking approval.

(b) Section D.4. An initial license shall be valid for up to one year after the date of issuance. A renewal license may be issued for up to two (2) years at the discretion of the Commissioner. A license may not be transferred from one operator to another, or from one primary location to another.

(c) Section D.6. If the Commissioner determines that the applicant or the license holder is not complying with the provisions of this rule, the license may be denied, revoked, suspended, made probationary, or not renewed after notice to the aqplicant or license-holder. The denial, revocation, suspension, probation, or failure to renew shall proceed in accordance with the provisions of applicable Minnesota laws and regulations.

(d) Section G.1.a.(3). Approves all ~~the~~ additions or deletions of services provided by the program which affects the implementation of the individualized treatment plans; additions or deletions must be submitted for approval to the commissioner within sixty days after implementation.

(e) Section G.2.b. Document 3 years of general work experience in administration and/or personnel supervision, ~~or Bachelor's Degree~~ and at least one year experience in direct

services to persons with alcohol and other drug problems, or document holding of Bachelor's Degree and at least one year experience in direct services to persons with alcohol and other drug problems.

(f) Section G.3.f.(7). ~~All documentation must be included in each staff personnel file.~~ Staff may be subject to an interview by the licensing authority regarding documentation.

(g) Section G.6. Staff development - each program shall provide documentation of a written staff development program for direct service and supervisory personnel. There shall be a minimum of 12 hours/year for each full-time equivalent staff. . . .

(h) Section G.9.(6). Document appropriate educational opportunities. Treatment and discharge planning must occur in coordination with the client's ongoing education setting. The program ~~must provide or contract with~~ shall assist in identifying to responsible educational facilities the client's need for Special Learning and Behavior Problem teachers, tutors, classroom teaching, vocational education, etc., as appropriate.

(i) Section H. Severability - If any provisions of the rule as adopted by the Commissioner of Public Welfare are found to be unreasonable or not supported by the evidence, the remaining provisions shall remain valid.

(j) In section G.9., subsections originally numbered (1) - (9) are reassigned alphabetical letters a. - j. in accordance with State Register Rule 6.

The Examiner finds that the Department gave good and sufficient reason for the preceding amendments at the hearing and that they do not constitute substantial change.

8. At the hearing in the above-entitled matter there was no comment or question with regard to the following sections of the proposed rule: A.; B.; C.1.; C.3.; C.4.; C.5.; C.6.; C.7.; D.1.; D.2.; D.5.; D.7.a.; D.7.c.; D.8.; D.9.; D.10.; D.11.; F.; G.1.a.2., 4., 5., 6., 7.; G.1.b.; G.1.d.; G.4.b., c.; G.5.c.; G.6.; G.7.; G.8.a., b., c.(1), d,. e., f., g., h., i(4), i(6), i(7), i(8); G.8.k., l., n., o(1); G.9.(a), (b), (c), (d), (g); H. The

Examiner finds that the Statement of Need, Statement of Evidence and testimony presented at the hearing by the agency panel show that the preceding sections are needed and reasonable as proposed and/or amended.

9. Section C.2. of the rule defines the term "client". At the hearing, Maureen Kramlinger of the Family Renewal Center, indicated the importance of including the entire family as the client. The Department comment pointed out that "the family and/or others significant to that person" are specifically included in the definition. Written comment by Hugh G. Madson questioned whether the language "whose alcohol and/or drug related behavior causes problems to himself/herself and/or others in the home, employment or community setting" would include behavioral problems rather than treatment of alcoholism and drug abuse. The Department comment indicated that the rule is by definition limited to those persons with alcohol or drug abuse problems and thus, would not exceed the legislative intent. The Department chose not to amend this section based upon those comments. However, in reviewing this section, the Examiner finds that the language "and/or others significant to that person" is extremely vague and would be difficult to administer. Although the Examiner understands the intent of the Department in including persons to whom the client may not have a legal relationship, but with whom there may be a close relationship (i.e., a member of the opposite sex with whom that person is cohabiting), the language as stated is too vague. The Examiner strongly urges that the Department delete the language or find a more specific designation for "a significant other". The Examiner finds that such amendment would not constitute a substantial change. The Examiner finds that this proposed section as amended is necessary and reasonable.

10. Section C.8. defines "outpatient treatment program". It specifically excludes programs whose primary functions are: Information and Referral, Diagnosis, Education, Support Group

Services, and Self-Help Groups. Ronald Reed, Family Service of the Greater St. Paul, recommended that the rule should not exclude those programs previously listed. The Department's position is that the rule was written to cover treatment programs only, and is too restrictive for other types of programs, such as those listed. The Department also notes that any agency which provides any covered program component may apply for licensure or approval, but that coverage will extend only to those components which are not excluded. The Examiner finds that this section of the rule is reasonable and necessary as proposed.

11. Section D.3. sets forth the time limitations for license application. John Curran, Hennepin County Department of Mental Health, Mental Retardation and Chemical Dependency, suggested that section D.3. be amended so as to be more clear. The Department submitted the following amendment based on those comments:

> D.3. All existing outpatient treatment programs must apply to the Commissioner within 60 days of the effective date of this rule and comply with the provisions of the Rule to obtain and maintain a license. New programs must obtain a license prior to accepting clients. Application for renewal of license shall be made 45 days prior to the date of expiration. Application and reapplication shall be made on forms furnished by the Commissioner.

The Examiner finds the proposed section as amended is necessary and reasonable.

12. Section D.6. provides that the Commissioner has certain sanctions available if he determines that the applicant or licenseholder is not complying with the provisions of this rule. It also provides that denial, revocation, suspension, probation or failure to renew shall proceed in accordance with the provisions of applicable Minnesota laws and regulations. Linda Sandivig, R.N., Minnesota Nurses Association, suggested that the rule include a recourse mechanism for negative licensing acts. It is the Department's position that an amendment is not necessary because the due process question is addressed in the Licensing Act, Minn.

Stat. Ch. 245, which is applicable to all Department of Public Welfare licensing. While the Examiner feels that the Department's position is not unreasonable, the Examiner also believes that a useful purpose would be served by specific reference to an appeal pursuant to Minn. Stat. Ch. 15, the Administrative Procedures Act, and that such specific reference would not constitute a substantial change. The reference to "Minnesota laws and regulations" should be amended so as to read, "Minnesota laws and rules" because the 1975 amendments to the Administrative Procedures Act specifically substitutes the term "rule" for "regulation". This section is reasonable and necessary as proposed.

13. Section D.7. of the proposed rule sets forth certain prerequisites for issuance of a license or provisional license. Section D.7.b. provides that a completed application shall be submitted to the Commissioner prior to issuance of a license from the Department of Public Welfare. John Curran stated that each applicant should provide the local area board/human service board with a completed copy of the application. The Department's comments indicate that the State can only require a minimum standards for licensure and, therefore, cannot require programs to duplicate materials for local area board/human service boards. However, the area board/human service board could require this as a prerequisite for determining the need for the program pursuant to section D.7.a. The section as proposed is reasonable and necessary.

14. Section E. establishes the right to entry of the authorized representatives of the Commissioner for purposes of licensing study and inspection. The Examiner points out that the section is labeled "E" with a subsection "1". However, there is no subsection "2". Therefore, the Examiner suggests that the "1" be deleted from the numbering system in order to be consistent. This would not constitute a substantial change. The Department may also wish to give some thought to this provision in light of

the recent Supreme Court decision, Marshall et al. v. Barlow's, Inc., No. 76-1143, May 23, 1978, with regard to unannounced OSHA inspections. The section as proposed is reasonable and necessary.

15. Section G. deals with minimum licensing standards. The title of section G. as proposed is Minimum Standards for issuance of a License to a Non-Residential Program. John Curran stated that the use of that language was inconsistent with the title of the rule. Based upon this comment, the Department proposes to amend the title of Section G. as follows:

> G. Minimum standards for issuance of a License to ~~a non-residential~~ an outpatient treatment program:

This section as amended is necessary and reasonable.

16. Section G.1. deals with the duties and responsibilities of each program with regard to governing bodies and advisory boards. At the hearing, John Curran suggested changes in the language which he felt would assist large multi-service agencies in the administration of outpatient treatment programs. Based upon those comments, the Department proposes to amend those sections as follows:

> G.1.a. Each outpatient program must be responsible to ~~have~~ a governing body, or to an Area Board/Human Service Board which directly operates an outpatient treatment program. The governing body must have ~~with~~ written documentation of its source of authority ~~and~~ which the governing body, directly or through its legal representative:. . .
>
> G.1.c. The program director must as a minimum make quarterly reports to the governing body or its legal representative and the advisory board and shall not be an official member of either the governing body or the advisory board.

This section as amended is reasonable and necessary.

17. Section G.2. requires each outpatient program to have a director and outlines the qualifications of the director. Linda Sandivig, R.N. of the Minnesota Nurses Association, stated that she felt the specific responsibilities for the program director should be outlined in this portion of the rule. The Department commented that section C.6. of the rule broadly defined the responsibilities for the position but left the specific

job description for each program to determine.

Section G.2.b. sets forth the qualifications for the program director. Lorraine Teel, Eden House, stated that the length of experience required for general work experience in administration and/or personnel should be shortened from three years to one year. The Department takes the position that three years is an appropriate equivalent to a Bachelor's Degree and continues to support that figure as appropriate. John Curran stated that the direct service requirements should be further broken down to include experience in the management or administration of direct services provided to persons with alcohol and other drug problems as an option to direct service experience. He suggested a two-year requirement for each or an equivalent combination. The Department agreed that administration of direct services of this nature is appropriate to include and amends the rule as follows:

> G.2.b. Document 3 years of general work experience in administration and/or personnel supervision, and (1) at least one year experience in direct service to persons with alcohol and other drug problems or (2) one year of experience in the management or administration of direct services to people with alcohol or other drug problems; or document holding of Bachelor's Degree and (1) at least one year experience in direct service to persons with alcohol and other drug problems or (2) one year of experience in the management or administration of direct services to people with alcohol or other drug problems.

The proposed section as amended is necessary and reasonable.

18. Section G.2.c. and Sections G.3.c. set forth requirements that the director and staff shall have no current drug problems related to alcohol or other drugs which negatively affect his or her job or program performance. John Curran suggested that the language be changed to read no current serious problems related to alcohol or other drugs. Frank Hall of St. John's Hospital commented that he felt that the requirement was rather vague. However, the Department's position is that the rule is consistent with federal legislation concerning discrimination based on disability and that it is more strictly concerned with job performance or the general performance of the program than the suggested changes would be. The Examiner finds that the proposed section is necessary and reasonable.

19. Section G.3. deals with staffing requirements. Hugh Madson submitted written comment indicating that the staffing requirements are not adequate because of the absence of a rule requiring the supervision of a medical doctor. This comment was also made with regard to section G.5. dealing with medical services. The Department has taken the position that since the rule demands that every direct counseling staff person be trained or exhibit competencies in writing individual treatment plans, the services of a physician are needed only on a contract basis to supplement their skills. The physician can be called in on a case-by-case basis for physical or psychiatric problems thus keeping the treatment cost to a minimum. The Department also commented that because a person is a medical doctor does not necessarily mean that the person has training or extensive knowledge in the treatment of people with problems concerning alcohol or other drugs. H. Leonard Boche, New Pioneer House, sent written comment indicating that G.3.b. - f. should be stricken because it establishes a credentialing system which infringes upon the work being done by the Department of Health. The Department comment indicated that this section merely establishes minimum competencies for the implementations of other sections of the rule. The Department of Health is expected to incorporate such competencies as credentialing standards.

Section G.3.e. provides that direct counseling staff must have at least one year of supervised clinical experience in an outpatient or after care setting. Several persons at the hearing testified that it might be difficult to hire staff with this particular kind of experience, although well-qualified people might be available with related experience. At the hearing, the Department took the position that the waiver provisions contained in section D.9. would remedy such problem. However, based upon these comments, the Department proposed to amend the rule as follows:

G.3.e. - Direct counseling staff must have at least one year supervised clinical experience in a residential primary treatment program, an outpatient treatment or after care setting.

The Department points out that they do not feel that this is a substantial change as the significant aspect of the section is supervised clinical experience rather than the specific setting in which such experience occurs. The Examiner agrees that this does not constitute a substantial change.

Section G.3.f. provides that personnel files of all direct counseling staff must include documentation of individual competencies in certain areas, including designing treatment plans, conducting assessment interview, implementing treatment plans, maintaining client record keeping systems, developing evaluative outcome criteria and identifying the variety of chemical use problems that exist in the community to be served by the program. Linda Sandivig suggested that the portion of the rule dealing with assessment interviews should include the client's physical health status and practice. The Department commented that the use of the language "physical and emotional functioning" in that portion of the rule sufficiently addresses that issue. Linda Sandivig and John Curran suggested that the evaluative outcome criteria referred to in G.3.f.(5) should be consistent with the program's philosophy. John Curran recommended that the sentence include developing "relevant" evaluative outcome criteria. It is the Department's position that those points are implied in the rule as stated. The Examiner finds that it is unnecessary to change the language for clarity.

Linda Sandivig suggested that G.3.f.(6) be amended to include "awareness of health problems in the community". It is the Department's position that this exceeds minimum standards and that it is very difficult for any individual to be aware of constantly changing community health problems. John Curran suggested clarification to that section which the Department feels should be made. The Department proposes to amend the section to read as follows:

G.3.f.(6): Identifying the variety of chemical use problems that exists in the community to be served by the program:. . . .

20. Section G.4. sets forth the personnel policies which must be described in the original application and all renewal applications. John Curran suggested that the words "including the director" be added to those sentences addressing annual performance reviews of the staff. The Department's position is that the wording is clear as the director is considered staff. The Examiner suggests that the Department give additional thought to this question as it is possible that some governing bodies might not construe the section as the Department construes it. Mr. Curran also recommended adding a section with regard to requirements for volunteers. The Department's position is that the provision would exceed minimum standards and that if volunteers act as direct counseling staff they must meet the requirements of section G.3. The Examiner feels that it is not necessarily clear from the rule that volunteers acting as direct counseling staff must meet the requirements of section G.3. and would suggest that the Department review its position. This would not constitute a substantial change. The Examiner finds that the section as proposed is reasonable and necessary.

21. Section G.5. deals with medical services and section G.5.a. deals with the documentation of the availability of a licensed physician and/or nurse practitioner. Linda Sandivig, R.N. and John Curran both suggested that the section should be amended to include registered nurses. The Department accepts this amendment and amends the rule to read as follows:

G.5.a. Documentation of availability of licensed physician and/or nurse practitioner or registered nurse for necessary medical care, emergency medical services, and medical reporting for all clients of the program.

In order to be consistent the Department also wishes to amend section G.8.c.(2) to read as follows:

A procedure for determining the necessity of a medical evaluation, which is developed in conjunction with a physician, nurse practitioner or registered nurse. Procedures for determining

the necessity of the psychological evaluation shall be developed in conjunction with the consultant required under section G.5.b.

Section G.5.b. requires documentation of the availability of a board certified or board eligible psychiatrist and/or licensed consulting psychologist to provide services for clients at the discretion of the director. Linda Sandivig questioned the qualifications of the director to determine whether a client is in need of psychiatric and/or psychological services. It is the Department's position that the director may determine when an evaluation should be done by the appropriate professional who will then determine if the service is needed. The Examiner finds that this section as amended is reasonable and necessary.

22. Section G.8. deals with administration and management of the programs. Section G.8.c.(3) provides that the admission procedure shall include an assessment of the patient including the chemical use history, a psycho-social history, cultural background, vocational and educational history, family relationships, socio-economic status and determination of current emotional state. Linda Sandivig pointed out that this section does not reference physical health problems. Based upon that comment, the Department proposes to amend that section as follows:

G.8.c.(3). Assessment that includes the chemical use history, a psycho-social history including utilization of relevant human services, cultural background, vocational and educational history, family relationships, socio-economic status and determination of current physical and emotional state.

Section G.8.i. sets forth the contents requirements for the individual record of each patient within the program. John Curran suggested that the individual treatment plan should include income and method of payment. Based upon that comment, the Department proposes that portion of the rule be amended as follows:

G.8.i.(1). Demographic characteristics of the client, including age, sex, ethnic/cultural group, income, method of payment and source of referral into the program.

The Examiner finds that this does not constitute a substantial change.

Section G.8.1.(2) requires the individual record to include documentation of the determination of the necessity of a physical assessment in the resulting referral when appropriate. John Curran suggested that the section should also address psychological assessment. The Department determined that this would be consistent with the rest of the rule and recommends the following change:

> G.8.i.(2). Documentation of the necessity of a physical and/or psychological assessment and the resulting referral when appropriate.

Section G.8.1.(3) requires the clients' records to include documentation of a psycho-social assessment. Linda Sandivig stated that the psycho-social assessment should include more specific information than that cited in the rule. The Department commented that the information which she cited is valuable, but also problematic. The Department also commented that these specific problems would be part of the nature and history of the client's chemical use. The Department does not recommend any change.

Section 8.i.(9) requires the individual's record to include a written individualized aftercare or discharge plan for each client. Hugh Madson suggested the inclusion of specific minimum requirements for such aftercare/discharge plans. The Department commented that the individual program is the best determinant of the after care or discharge plan most appropriate for each client. Therefore, the Department does not recommend a change. This section of the rule as amended is necessary and reasonable.

23. Section G.8.j. deals with requirements for follow-up data. Maureen Kramlinger and Lorraine Teel both had comments with regard to this section of the rule especially with regard to an allowance for situations where the program after reasonable effort is unable to locate the clients. There were also comments indicating that "appropriate post-treatment activities or life-style" was too vague. Based upon those comments, the Depart-

ment proposes to amend the rule as follows:

> G.8.j. Follow-up data, obtained within 3 - 6 months after the client discontinues the program (those who are either discharged at completion of the program, and those who leave the program before completion), shall be collected from no less than 50 clients drawn randomly, or 100% of the discontinued clients, whichever number is less, served in the 12 months since issuance or last renewal of the license. Documentation of efforts to locate clients for follow-up shall be made on a client by client basis. Follow-up contacts should ascertain, for each client, . . . (3) whether the client is engaged in appropriate post-treatment activities or life-styles which are consistent with the client's treatment and/or discharge plan.

Section G.8.m. provides that client records shall be kept on a continuing basis and specifies the contents of those records. John Curran suggested that the rule should specify the time limit for which such records should be retained. The Department proposes to amend the rule as follows:

> G.8.m. Records shall be kept on a continuing basis that accurately reflect the number and dates of clients accepted and rejected, number and dates of clients discharged, length of service and what happens to clients upon leaving the program. Such records shall be furnished to the commissioner upon request. Such records shall be kept of a minimum period of five years for ongoing programs or for one year for defunct.

The Examiner suggests the language of the amendment be changed to read "such records shall be kept for a minimum period of five years for ongoing programs or for one year for defunct" in order to be more consistent.

Section G.8.o. of the rule provides that the management policies must include a description of the methods by which clients' legal, civil and human rights will be protected. Subsection (2) provides that the risks associated with the use of any therapeutic procedures shall be fully explained to the patient in terms he or she can understand. Lorraine Teel commented at the hearing that the term "risks associated" should be further clarified as any treatment can be construed as being potentially harmful. It is the Department's position that the section cannot be made more specific because of the multitude of therapeutic techniques used in treatment programs. The Department also indicated that the language was taken directly

from the Joint Committee on Accreditation of Hospitals. Although the Examiner does feel that the language is somewhat vague, it does not render the rule unreasonable. Jane Campion, St. Mary's Hospital of Rochester, Minnesota, suggested that a section be added to the rule addressing special charting requirements where risks are anticipated. The Department chose not to amend on the basis of this suggestion because the charting requirements for treatment in an outpatient setting are sufficient to regulate therapeutic practices and safeguard client rights. The Examiner finds that this section, as amended, is reasonable and necessary.

24. Section G.9. establishes additional requirements for outpatient treatment programs serving adolescents.

Section G.9.e. deals with documentation of attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment process. Comments by Lorraine Teel indicated that the language of the rule as proposed violated the rights of the individual client not to have involvement by their family or family surrogate. Based upon these comments, the Department proposes to amend the rule as follows:

> G.9.e. Document attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment process. If, despite reasonable effort, participation of a functioning family or family surrogate unit cannot be obtained or if the client chooses not to permit their involvement, it is then the obligation of the program to involve the anticipated provider of after care services and discharge planning.

Section G.9.f. deals with documentation of appropriate educational opportunities. Comments at the hearing by John Curran dealt with amendment of the section to more clearly maintain the delegation of responsibility as defined by federal and state legislation and rules. The rule, as proposed for amendment at the public hearing, addresses this problem and it is the Department's position that the rule now has the appropriate wording to comply with other state legislation.

Section G.9.h. deals with provision of a recreational rehabilitation program to clients. Lawrence Barnett suggested

that this section be amended to include the words "an appropriate or applicable". It is the Department's position that nearly every adolescent needs recreational rehabilitation and that the program must assure this area is being addressed in the treatment program.

Section G.9.i. deals with the requirement for development of a discharge plan which must be signed by the client. John Curran suggested that signatures of all persons participating in the development of the after care plan should appear on the document. It is the Department's position that this is not appropriate because it goes beyond the minimum standards and that the Department can only require acknowledgement of the client's participation as he or she is the person for whom the plan is developed. The Examiner finds that this section, as a model, is reasonable and necessary.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department of Public Welfare gave proper notice of the promulgation of the proposed rule.

2. That the Department of Public Welfare has statutory authority to take the action proposed, to wit, the promulgation of the proposed rule.

3. That the Department of Public Welfare has fulfilled all relevant, substantive and procedural requirements of law or rule.

4. That the Department of Public Welfare has demonstrated the need for and the reasonableness of the proposed rule by an affirmative presentation of facts in the record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is recommended that the proposed rule be adopted by the Department of Public Welfare with consideration given to the Findings of Fact herein.

Dated: June 8, 1978.

NATALIE L. GAULL
Hearing Examiner

Agency Ex 5

RECEIVED
MAR 29 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE #43.

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of the Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, and in support thereof, the Minnesota Department of Public Welfare will introduce the following evidence at the hearing in the above entitled matter scheduled for Monday, April 24, 1978, commencing at 9:00 A.M. in the State Office Building, Room 83, Wabasha Street, St. Paul, Minnesota, 55155.

1. Documents will be submitted and expert opinions presented to prove the need for and reasonableness of the proposed rules, including:
   (a) Joint Commission on Accreditation of Hospitals Standards for Outpatient Treatment Programs;
   (b) List of the members of the original Task Force for Proposed Rules and Regulations for Licensure of Day Care (Outpatient) Alcohol & Drug Programs.
   (c) A section-by-section review of the proposed rule with supporting evidence and testimony by department representatives and non-department experts.
2. One or more of the following supporting witnesses may be called from the Department of Public Welfare, from the Insurance industry, and Chemical Dependency profession.

(a) Warren D. Stortroen, Regional Claims Manager, Bankers Life Company, may testify to the need for licensure of outpatient treatment programs in order to receive third party reimbursement;

(b) Phil Carlson, Minnesota Blue Cross-Blue Shield, Senior Research Analyst, may testify to the need for licensure of outpatient treatment programs in order to receive third party reimbursement;

(c) Robert Haven, Director, Twin Town Treatment Center, Insurance Task Force, may testify to the reasonableness and appropriateness of these regulations for outpatient treatment.

(d) Harry Swift, Director, Hazelden Foundation, member of Task Force which drafted proposed rule, may testify to the need for the rule and the necessity for licensure of programs;

(e) Larry Fonnest, Joint Accreditation and Standards Specialist, Hazelden Foundation, may testify to correlation of this rule with the Joint Commission on Accreditation of Hospitals Standards;

(f) John Buzzell and Cheryl Nyhus, Licensing Division, DPW, may testify to the appropriateness of rule under the provision of the Department of Public Welfare's licensing rules and regulations;

(g) Richard Neuner, Chemical Dependency Division, DPW, may review the sections of the rule and clarify specific parts.

All witnesses and other Department personnel will be available to answer questions as they might relate to the Department of Public Welfare's presentation of supporting data as set forth, concerning the proposed rule.

3. We intend to introduce the following documents and information in support of the proposed rule:

   (a) Statement of Need and Facts

   (b) Copy of the guidelines of the Joint Commission of Accreditation of Hospitals;

   (c) The list of Task Force for Developing Rules and Regulations for Licensure of Daycare (Outpatient) Alcohol & Drug Problems;

4. We will cite the following statutes:

   Minnesota Statutes 62A.149

   Minnesota Statutes 245.781-813

   Minnesota Statutes 254A.02, Subd. 2

   Minnesota Statutes 254A.03, Subd. 1

   Minnesota Statutes 254A.10

March 29, 1978
DATE

Edward S. Dirkswager
Edward S. Dirkswager, Jr.
Commissioner
Department of Public Welfare

agency 8 & 9

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MAR 29 1978
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STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE 43

AFFIDAVIT OF ADDITIONAL MAILING

DIANE LYNN HENDERSON, being first duly sworn, deposes and says:

That on the 17th day of March, 1978, at the City of St. Paul, County of Rasmey, State of Minnesota, in addition to mailing the attached Notice of Hearing to all persons and associations listed on the Secretary of State's list, she also served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid to the following agencies:

All Minnesota County Welfare Departments
All Minnesota Human Service Boards
All Minnesota Area Mental Health Boards
All Minnesota State Hospitals

Additional Mail:

Health Planning Areas	6
Information & Referral	174
Licensed Primary Treatment Centers	33
Outpatient Treatment Centers	21
Board & Lodging	5
Sub-Acute Receiving Centers	26
Halfway Houses	42
Extended Rehab.	4
Youth	8
American Indian	4
TOTAL:	323

Diane Henderson

Subscribed and sworn to before me this 22nd day of March 1978.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

Agency Ex B

RECEIVED
MAR 29 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE 43

AFFIDAVIT OF MAILING

DIANE LYNN HENDERSON, being first duly sworn, deposes and says:

That on the 17th day of March, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Diane Lynn Henderson

Subscribed and sworn to before me this

21 day of March, 1978

Notary Public,

Ramsey County, Minnesota

My Commission expires Sept. 22, 1984

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

Agency Ex. 6

RECEIVED
MAR 29 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE 43

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

DIANE L. HENDERSON, being first duly sworn, deposes and says:

1) That she is an employee of the Special Services Division, Department of Public Welfare, State of Minnesota.

2) That on the 14th day of March, 1978, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 14th day of March, 1978, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Diane L. Henderson

Subscribed and sworn to before me this 21 day of March 1978.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

Agency Ex. 7

RECEIVED
MAR 29 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE 43

CERTIFICATE OF DELIVERY
SECRETARY OF STATE
LIST

I hereby certify that the attached 484 labels, 4 sheets constitute the complete list of perons, associations, and other interested groups who as of 10:00 o'clock A .M. this 15th day of March, 1978, have requested pursuant to M.S. 15.0412 the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

BY Cheri L. Mattson

DRD-78-049-SM

RECEIVED

MAR 15 1978

OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE 43

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the State Office Building, Room 83, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota, 55155, on April 24, 1978, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8112, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

Proposed Rule 43 sets minimum standards for outpatient treatment programs for people with alcohol and other drug problems. The rule contains an extensive definition section. It contains licensing guidelines relating to which programs must be licensed; how and when programs may apply; terms of denial, revocation, suspension and nonrenewal of licenses; establishment of need; and licensing fees. The rule mandates that an authorized representative of the Commissioner be allowed to inspect the program and that programs comply with State and Federal Regulations pertaining to confidentiality. The rule also contains standards for the outpatient treatment program. These standards cover the following areas: (1) Governing and advisory boards (2) Qualifications of director and direct counseling staff (3) Staffing requirements (4) Personnel policies (5) Medical Services (6) Staff development (7) Program evaluation. The rule also contains provisions for administration and management of the outpatient treatment program mandating policies and procedures in the following areas: (1) Admissions (2) Discharge (3) Program design and methodology (4) Appropriate service hours and equivalent counselor time (5) Referrals (6) Individual client record (7) Follow-up (8) Financial records (9) Statistical records (10) Insurance (11) Clients rights. Additional requirements pertaining to programs which serve adolescents are also included.

Copies of the proposed rule are now available and one free copy may be obtained by writing to Doris Hennagir, CD Program Division, 4th Floor Centennial Building, St. Paul, Minnesota, 55155, (612) 296-4617. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. 62A.149, 245.781-.813, 254.A.02, Subd. 2, 254A.03, Subd. 1 and 254A.10. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone number (612) 296-5615.

Edward J. Dirkswager, Jr.

EDWARD J. DIRKSWAGER, JR.
Commissioner

Dated: March 2, 1978

Agency Ex 2

RECEIVED
MAR 15 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS, RULE 43

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rule be held in the State Office Building, Room 83, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota, 55155, on April 24, 1978, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representative of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Edward J. Dirkswager, Jr.
Commissioner

Dated: March 7, 1978

PROPOSED RULE

MINN. DPW RULE 43: Standards For Outpatient Treatment Programs For People With Alcohol & Other Drug Problems.

A. STATUTORY CITATION:

This rule is promulgated pursuant to Minnesota Statutes §§ 62A.149, 245.781-. 813, 254A.02, Subd. 2, 254A.03, Subd. 1 and 254A.10.

B. STATEMENT OF PURPOSE:

The purpose of this rule is to establish a basis for approving or licensing outpatient treatment programs for people with alcohol and other drug problems.

C. DEFINITIONS:

1. "Applicant" - any person, agency or organization applying for a license or renewal license under this rule.
2. "Client" - an individual whose physical, social or psychological status allows them to function in their usual community environment, but whose alcohol and/or drug related behavior causes problems to himself/herself and/or others in the home, employment or community setting and who is receiving services in an outpatient program covered by this rule. This may include the family of and/or others significant to that person.
3. "Commissioner" - the Commissioner of the Department of Public Welfare or a designated representative of the Commissioner.
4. "Department" - the Department of Public Welfare.
5. "License" - the certificate issued by the Commissioner that validates compliance with this rule, and authorizes the applicant to operate a non-residential program.

6. "Program Director" - the applicant staff member responsible for planning, implementing and directing the operation of all aspects of the program.

7. "Direct Counseling Staff" - all staff employed by the facility and who provide treatment and/or related services to clients.

8. "Outpatient Treatment Program" - a treatment program with a defined regimen serving at one time 5 or more persons experiencing problems related to alcohol or other drugs for the main purpose of providing primary or post-primary treatment care. The regimen must provide a minimum of 10 hours of total service time scheduled at a minimum of 1 hour per week and must provide time-limited therapeutic services on a non-residential basis employing individual treatment plans to clients.

Programs not covered by this rule are those whose primary functions are: Information and Referral, Diagnosis, Education, Support Group Services, Self-Help Groups.

D. LICENSURE:

1. No outpatient treatment program shall operate without a current and valid license or provisional license to operate in the State of Minnesota. The license shall prescribe the person or organization operating the program and the location of the program.

2. Outpatient treatment programs which are housed within a hospital, licensed by the Department of Health are excluded from these regulations under Minnesota Statutes 245.791 (1977 supp), but the program has option of voluntarily seeking licensure or approval if it is requested.

3. Every outpatient treatment program must apply to the Commissioner within 60 days of the effective date of this rule and comply with the provisions of the rule to obtain and maintain a license. Application for renewal of license shall be made 45 days prior to the date of expiration. Application and re-application shall be made on forms furnished by the Commissioner.
4. An initial license shall be valid for up to one year after the date of issuance. A renewal license may be issued for up to two (2) years at the discretion of the Commissioner. A license may not be transferred from one program to another.
5. Every applicant shall be furnished with a copy of this rule.
6. If the Commissioner determines that the applicant or the license-holder is not complying with the provisions of this rule, the license may be denied, revoked, suspended or not renewed after notice to the applicant or license-holder. The denial, revocation, or failure to renew shall proceed in accordance with the provisions of applicable Minnesota laws and regulations.
7. Prior to the issuance of a license or provisional license, the following steps shall be completed:
   a. The need for the program shall be the determination of the Area Board/Human Service Board. Documentation explaining the basis for the determination must be submitted to the Commissioner.
   b. A completed application shall be submitted to the Commissioner prior to issuance of a license from the Department of Public Welfare.
   c. The fee for license shall be paid to the Commissioner.

8. Licensing policies and procedures shall be available to the public.

9. A specific regulation may be waived for not more than one year at one time with the approval of the Commissioner, provided that the health and safety of the clients is assured. The granting of a waiver will be considered individually on its merits.

10. Each applicant must provide assurance that no person shall be discriminated against in relation to admission, discharge or treatment on the basis of sex, race, creed, color, national origin, religion, disability, or sexual preference.

11. All facilities where non-residential programs are conducted must meet all applicable local and state codes relative to fire, safety, building zoning and health standards, and documentation of that must be provided prior to granting a license.

E. RIGHT TO ENTRY:

1. Authorized representatives of the Commissioner may visit the program at any time during the hours of operation for purposes of licensing study and inspection. Inspections may be made without prior notice to the applicant and program director.

F. CONFIDENTIALITY:

1. No information regarding a client shall be released to any person or agency, except pursuant to applicable state and federal regulations.

   a. There shall be a written plan describing methods and procedures used to ensure confidentiality of case records.

b. This written plan shall include but not be limited to methods and procedures for release of information to and obtaining information from outside agencies and resources, as governed by appropriate state or federal statute regulations.

G. MINIMUM STANDARDS FOR ISSUANCE OF A LICENSE TO A NON-RESIDENTIAL PROGRAM:

1. Governing and Advisory Boards

a. Each outpatient program must have a governing body with written documentation of its source of authority and which:

(1) Is legally and financially responsible for the operation of the program or agency.

(2) Operates the program in compliance with all appropriate state and federal laws.

(3) The addition or deletion of services provided by the program which affects the implementation of the individualized treatment plans must be submitted for approval to the Commissioner within 60 days after implementation.

(4) Documents the adoption of a schedule of meetings and attendance requirements, and shall keep minutes of all meetings.

(5) Provides accessibility of all policies and procedures mandated in this rule to all staff.

(6) Reviews and approves fiscal plan on an annual basis to include review and approval of annual operating budget, fee schedule, and annual audit.

(7) Reviews and approves all revisions to the fiscal plan.

b. Each outpatient program must have an advisory board which consists of at least 5 members and:

(1) Provides a system for client input regarding the program.

(2) Provides a system for community input regarding the program.

(3) Has at least one community representative as a member who has no other affiliation with the program.

(4) Includes a former participant of the program or some other outpatient program as defined by this rule.

(5) Provides input to governing board and direction to program director regarding all additions or deletions of services provided by the program which affects the implementation of the individualized treatment plans.

c. The program director must as a minimum make written quarterly reports to the governing and advisory board and shall not be an official member of either board.

d. Any governing body which elects not to have an advisory board must itself meet the requirements for a governing board and an advisory board as specified in G.1 a & b.

2. Director - every outpatient program shall have a director who shall:

a. Be at least 18 years of age.

b. Document 3 years of general work experience in administration and/or personnel supervision, or Bachelors degree and at least 1 year experience in direct services to persons with alcohol and other drug problems.

c. Have no current problems related to alcohol or other drugs which negatively affects his/her job or program performance.

3. Staffing Requirements

a. Programs must demonstrate staffing capability to provide services at the levels identified within the program plan. To this end the following minimal requirements must be satisfied:

(1) For each 1 hour of individual, group or family unit counseling and each admission and discharge interview, a minimum of 1.25 hours of counselor time must be allocated.

b. Direct counseling staff must be at least 18 years of age.

c. Staff must not have current problems related to alcohol or other drugs which negatively affects his/her job or performance.

d. Direct counseling staff must have at lease one year experience/or education in behavioral health or human services.

e. Direct counseling staff must have at least 1 year supervised clinical experience in an outpatient or aftercare setting.

f. Personnel files of all direct counseling staff must include documentation of individual competencies in the following areas:

(1) Designing individualized treatment plans based on the needs of each client.

(2) Conducting an assessment interview and listing the client's specific strengths and problems related to chemical use, physical and emotional functioning, family and other cultural issues.

(3) Implementing individualized treatment plans utilizing internal and/or external program services including: vocational, education, spiritual, family, financial, recreational, health, legal, chemical.

(4) Maintaining client recordkeeping systems.

(5) Developing evaluative outcome criteria for each problem area identified in the individualized treatment plan.

(6) Identifying the variety of chemical use problems that exist in the community:

(a) Pharmacological and behavioral effects of various chemicals.

(b) Age and cultural aspects.

(c) Short and long treatment implications of a & b above.

(7) All documentation must be included in each staff personnel file. Staff may be subject to an interview by the licensing authority.

4. Personnel Policies - the original application and all renewal applications shall describe the nature and extent of the training and qualifications of the staff and shall include a description of the staff organization, which defines the role and responsibilities of all personnel and lines of authority.

a. The applicant shall maintain personnel policies including: job descriptions, qualifications, performance and evaluation standards, remuneration and fringe benefits for each staff position. These policies shall include procedures governing hiring, suspension, dismissal, assignment promotion, grievance

procedures, and other appropriate policies. Performance review shall be made at least annually.

b. These written policies shall be maintained and communicated to the staff, prospective staff, and volunteers of the program. Policies shall be reviewed and updated annually.

c. These policies shall be implemented without prejudice regarding sex, race, creed, color, national origin, religion, disability, or sexual preference and include an affirmative action plan.

5. Medical Services

a. Documentation of availability of licensed physician and/or nurse practitioner for necessary medical care, emergency medical services, and medical reporting for all clients of the program.

b. Documentation of availability of Board-certified or Board-eligible Psychiatrist and/or Licensed Consulting Psychologist who shall provide at the discretion of the director, when needed, psychiatric and psychological evaluation services for clients admitted to the program.

c. Prescription medication when administered on the premises of the program shall be administered by qualified personnel as specified by the Minnesota Department of Health.

6. Staff Development - each program shall provide documentation, a written staff development program for direct service and supervisory personnel. There shall be a minimum of 12 hours/year for each full time equivalent staff. The program shall include orientation and training of all staff, continuing development of staff skills and

abilities through a defined in-service program and/or participation in other training programs. If volunteers are utilized, they shall be included in staff development programs. The person responsible for the staff development program shall be identified. This plan shall be reviewed annually.

7. Evaluation - all programs shall develop procedures to monitor how well their program's administration and service goals (See G 8.b.) are being met.

   a. For each objective specified in the application, there shall be a separate procedure for monitoring progress towards reaching that objective. These procedures shall be specified to the Department at time of application.

   b. For each objective specified in the application, there shall be a separate statement of actual progress made towards reaching the objective, determined by using the procedure specified above. These statements of actual progress shall be submitted to the Department with the application for renewal of license.

   c. Program shall submit information to the Commissioner for evaluative purposes upon request.

   d. Program shall provide documentation verifying integration of evaluation outcomes into the program operation.

8. Administration and Management - every outpatient treatment program shall have written administrative and management policies governing the administration and supervision of the operations, the program and the duration of the program. Such documentation shall include:

a. A written plan describing the program's philosophy, organization and role of supervisory personnel.

b. Administration and service goals and objectives for the operation of the program.

c. Policies and criteria for admission and discharge, including a definition of when a client is considered active in the program. The admission procedure shall include:

(1) A description of the process by which a client is accepted or rejected by the program and disposition of client if not accepted.

(2) A procedure for determining the necessity of a medical evaluation, which is developed in conjunction with a physician or a nurse practitioner.

(3) Assessment that includes the chemical use history, a psycho-social history including utilization of relevant human services, cultural background, vocational and educational history, family relationships, socio-economic status and determination of current emotional state.

d. A written description of program design and methodology.

e. A written delineation of the inter-relationship of the program and other appropriate public and private service providers.

f. The program must develop an annualized projection of individual and/or family counseling hours, group counseling hours, admission and discharge interviews and discharge and/or aftercare planning to be provided by the program.

Program must also develop annualized projection of counseling hours available to provide these services based on number of staff positions and equivalent counselor time (See G.3.a (1)). Annual projections of service hours and equivalent counselor time must be reviewed, updated and submitted to the Commissioner with each application for renewal.

g. A written procedure for the provision of services required by individual clients which are unavailable in the program.

h. The program shall have a written referral policy and procedure for client referral between the program's components and/or between the program and other community service providers which includes:

(1) Conditions under which referrals are made.

(2) Means by which the program will assist in the referral of those individuals who are seeking services that the program does not provide.

(3) Documentation of at least one contact with the referral agency within a designated time period.

(4) Current and confidential log of all referrals that the program initiates and receives.

i. An individual record for each client of the program which includes:

(1) Demographic characteristics of the client, including age, sex, ethnic/cultural group, and source of referral into the program.

(2) Documentation of determination of the necessity of a physical assessment and the resulting referral when appropriate.

(3) Documentation of a psycho-social assessment, which shall include the nature and history of the client's chemical use, the nature and history of the problems associated with the client's chemical use, and the nature and history of the client's previous contacts with chemical dependency services, mental health services, the criminal justice system, or other social, vocational, educational or financial services.

(4) A written individual treatment plan which identifies client needs and problems, based on the psycho-social assessment, and if deemed necessary, the medical evaluation which:

(a) Specifies services planned for meeting the client's needs.

(b) Includes referrals for services not available within the program.

(c) Describes the client's participation in development of the treatment plan, and is signed by the client and a staff member.

(d) Documents progress and changes at least weekly.

(5) All entries must be legible, dated and signed.

(6) Written consent of the client or guardian for any release of information to persons not otherwise authorized to receive it pursuant with state and federal regulations.

(7) Documentation, signed by the client, that he/she has received a copy of the program rules, the client's rights, and responsibilities while participating in the program.

(8) A discharge summary which evaluates the client's progress toward goals and objectives set forth in the treatment plan and describes the joint program/client's plans for future activities to maintain effective functioning and the program's plans for follow-up of the aftercare plan.

(9) Each program shall provide a written individualized aftercare/discharge plan for each client which is designed to establish continuing contact, ensure utilization of other appropriate resources in the community, and record progress against pre-stated goals.

j. Follow-up data, obtained within 3-6 months after the client discontinues the program (those who are either discharged at completion of the program, and those who leave the program before completion), shall be collected from no less than 50 clients drawn randomly, or 100% of the discontinued clients, whichever number is less, served in the 12 months since issuance or last renewal of the license. Follow-up contacts should ascertain, for each client, (1) the client's present chemical use patterns; (2) whether problems originally associated with the client's chemical use are improved or have become worse; (3) whether the client is engaged in appropriate

post-treatment activities or lifestyles; (4) whether the client needs or wants additional services. The follow-up collection procedure should permit quarterly summarization of data for all clients.

k. At the time of application for licensure renewal, the applicant shall submit a report to include a summary of data collected pursuant to section G.8j.

l. Financial records including an annual budget, records of income and expenditures, fee policies, and record of an annual audit. New programs must document in writing assurances of funding sufficient to meet total projected program costs and start-up costs if any, for a period of at least one year.

m. Records shall be kept on a continuing basis that accurately reflect the number and dates of clients accepted and rejected, number and dates of client discharged, length of service and what happens to clients upon leaving the program. Such records shall be furnished to the Commissioner upon request.

n. Written documentation of general liability insurance coverage in an amount sufficient to protect the interests of the clients and staff.

o. A description of the methods by which clients' legal, civil, and human rights will be protected. This shall include the procedures for handling complaints and grievances by clients, their relatives, and/or guardians. A written copy of such rights and procedures shall be given to each client entering the program and posted in a prominent place.

(1) The program shall have a written statement of its policies and practices for handling cases of neglect and abuse of its clients.

(2) The risks associated with the use of any therapeutic procedures shall be fully explained to the patient in terms he/she can understand.

9. Outpatient treatment programs serving adolescents must meet the above requirements and in addition each program must:

(1) Provide a written rationale for its approach to the treatment of adolescents, demonstrating that within the context of its adult/adolescent population, the program can provide appropriate services to adolescent clients.

(2) Provide counselor(s) with knowledge in adolescent chemical dependency behavior, adolescent behavior, and direct counseling experience with adolescents. Personnel files of these counselors must document that the qualifications and expertise of identified staff is sufficient to meet the needs of the clients.

(3) Provide for each 1 hour of individual, group, or family unit counseling and each admission and discharge interview, a minimum of 1.5 hours of counselor time must be allocated. This section supersedes section G.3 (1) above.

(4) Provide inservice training of direct counseling staff in areas specific to the treatment of chemically dependent adolescents, including training on incest, sexual and physical abuse, family dynamics, independent

living skills, habilitation vs. rehabilitation, experimentation, and decision making.

(5) Document attempts to obtain the active participation of the adolescents family or family surrogate in the treatment process. If, despite reasonable effort, participation of a functioning family or family surrogate unit cannot be obtained, it is then the obligation of the program to involve the anticipated provider of aftercare services in discharge planning.

(6) Document appropriate educational opportunities. Treatment and discharge planning must occur in coordination with the client's ongoing educational setting. The program must provide or contract with Special Learning and Behavior Problem teachers, tutors, class room teaching, vocational education, etc., as appropriate.

(7) Provide treatment, literature, lectures, etc. which are easily comprehendible to, and appropriate for the age level of adolescent serviced.

(8) Provide a recreational rehabilitation program to clients. Activities should be planned to develop constructive leisure time activity skills and should be documented in each individualized treatment plan.

(9) Develop a discharge plan which reflects consideration of aftercare provisions unique to adolescents to include leisure time, education, specialized adolescent services, role of family or family surrogate. The plan should be developed cooperatively by the client, program staff,

referring agency, family (or surrogate) and the anticipated provider of aftercare services (when appropriate), and signed by the client.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULE 43 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING STANDARDS FOR OUTPATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS

Affidavit of Mailing

Notice of Submittal to the

Attorney General

DIANE LYNN HIRTE, being first duly sworn, deposes and says:

That on the 8th day of August, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota she served the attached Notice by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons who had so requested to be notified.

Diane Lynn Hirte

Margaret Holt

Subscribed and sworn to before me this

8th day of August 1979

Notary Public

Ramsey County, Minnesota

My Commissioner expires Sept 22, 1984

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED
ADOPTION OF RULE 43 OF THE DEPART-
MENT OF PUBLIC WELFARE GOVERNING
STANDARDS FOR OUTPATIENT TREATMENT
PROGRAMS FOR PEOPLE WITH ALCOHOL
AND OTHER DRUG PROBLEMS

To all Interested Persons:

Pursuant to your request and in accordance with Minnesota Statutes, Section 15.0412, subdividion 4 and Rule HE 102, PLEASE TAKE NOTICE that the above-captioned rule(s) have been submitted to the Attorney General's Office on August 8, 1979 for review as to form and legality. Pursuant to Rule ATTYGEN 305, any person may question the legality of the above-captioned rules within ten (10) days after receipt of the rule by the Attorney General. Thereafter, the Office of the Attorney General shall conduct its review. If you desire to question the legality of the above-captioned rules, you should direct your comments to the Attorney General's Office, G-25 Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General you may contact Mark Wilcox, Department of Public Welfare, 658 Cedar Street, St. Paul, Minnesota 55155, 612/296-4610.

Arthur E. Noot
Commissioner of Public Welfare

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General, Ellen C. Dubuque, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Ellen C. DuBuque
Special Assistant Attorney General

Dated: August 8, 1979

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULE 43 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING STANDARDS FOR OUT-PATIENT TREATMENT PROGRAMS FOR PEOPLE WITH ALCOHOL AND OTHER DRUG PROBLEMS.

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on April 24, 1978, before Natalie L. Gaull, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Public Welfare on June 8, 1978; and

WHEREAS, the Department of Public Welfare has now determined to adopt the rule pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Public Welfare has submitted said rule to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rule is not substantially different from that proposed at the public hearing and that the Department of Public Welfare has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Public Welfare has the responsibility of submitting the complete hearing record and the rule as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 3rd day
of August, 1979.

DUANE R. HARVES
Chief Hearing Examiner