

Minnesota Attorney General: Administrative Rules Proceedings

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STATE OF [illegible]NESOTA

DEPARTMENT: Attorney General

Office Memorandum

TO : Jack Young
Commissioner
Department of Correction

DATE: 12/13/79

FROM : Lee E. Sheehy
Special Assistant
Attorney General

PHONE: 296-1238

SUBJECT: Rules as Approved ~~In~~ the Matter of the Proposed Adoption of the Rules of the Department of Corrections Governing the Minimum Standards for Adults Halfway Houses and Group Foster Homes

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: Susan Robertson
Duane Harves

PROPOSED ADOPTED RULES

OF THE DEPARTMENT OF CORRECTIONS

GOVERNING

MINIMUM STANDARDS FOR

ADULT HALFWAY HOUSES

AND

GROUP FOSTER HOMES

Revised December 5, 1979

DEPARTMENT OF CORRECTIONS
266 Metro Square Building
7th and Robert Streets
St. Paul, 55101

John R. McLagan, Director
612/296-6041

Chapter 1 Adult Halfway Houses

11 MCAR § 2.401 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all Adult Halfway Houses.

B. The Commissioner of Corrections, has, pursuant to Laws of 1978, ch. 778, Sec. 6, appointed a citizens' advisory task force to assist in the development of rules contained herein.

C. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of Adult Halfway Houses.

11 MCAR § 2.402 Definitions. Definitions, for the purpose of these rules are as follows:

A. "Youth" are persons under eighteen (18) years of age.

B. "Adults" are persons eighteen (18) years of age or over.

C. "Department of Corrections", "Department" or "DOC" shall mean Minnesota State Department of Corrections.

D. "Commissioner" shall mean the Commissoner of the Minnesota State Department of Corrections or his designee.

E. "Applicant" is any person(s), agency or organization applying for a license or renewal of license under this rule.

F. "License" is a certificate issued by the Commissioner authorizing the operator to provide specified services for a period of a year in accordance with the terms of the license, Minn. Stat. § 241.021, and the rules of the Commissioner.

1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) shall be issued for another six (6) month period if the applicant is temporarily unable to comply with the requirements of these rules.

2. "Renewal license" is a license issued for a period subsequent to the period for which the license was issued and where there has been no intervening period during which a license has been revoked.

3. "Revocation of license" means that the operator of a facility shall no longer be authorized to provide services.

4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in compliance with licensing requirements.

G. "Community Correctional Facility" or "CCF" is any community based facility, public or private, including group foster homes, juvenile halfway houses, adult halfway houses and shelter facilites, having a residential component, the primary purpose of which is to serve persons placed therein by a court, court services department, parole authority, or other correctional agency having dispositional power over persons convicted of a crime or adjudicated to be delinquent.

H. "Adult Halfway House" means any community based residential facility, the primary function of which is to provide, through its own program or community resources, services to adults accused of, charged with, or convicted of a criminal offense.

I. "Waiver" is written permission from the Commissioner to disregard a particular section of a licensing rule.

J. "Residential facility" means any Community Correctional Facility which regularly provides twenty-four (24) hour a day care including food and lodging.

K. "Governing Board/Sponsoring Agency" is the body which formulates the policies and procedures governing a Community Correctional Facility, this body being composed, at a minimum, of the offices of president, secretary and treasurer. In non-profit corporations the administrator of the program shall not be a member of the board of directors. In addition, there may be an advisory board, where appropriate, including membership from the specific target group and the immediate neighborhood population, and additional membership according to the size and function of the individual program.

L. "Facility administrator" refers to the administrator of the program, employed or appointed by the board or Sponsoring Agency, to implement its policies, programs and treatment plans.

M. "Supervising agent" is the parole/probation agent working with an individual resident or set of residents living in a single CCF.

N. "Program" is a plan, procedure or activity for dealing with residents in a Community Correctional Facility.

O. "Treatment plan" is a design for helping the resident reach the goal of rehabilitation.

P. "Contraband" are those items designated by the CCF as prohibited on the physical premises of the facility.

Q. "Significant others" are persons who are important in the life of the resident.

R. "Private corporation" includes any company, association, or body endowed by law with any corporate power or function, except such as are formed solely for public and governmental purposes, which shall be deemed public corporation.

S. "Non-profit corporation" means a corporation formed for a purpose not involving pecuniary remuneration, directly or indirectly, to its shareholders or members as such.

T. "Community Corrections Advisory Board" is the governing body that is responsible for a comprehensive plan under the Community Corrections Act in a county or group of counties.

U. "Target group" means a class of residents with a need for similar services arising primarily out of a particular type of disability, including but not limited to social disabilities resulting in contact with the correctional system.

V. "Substantially conform" or substantial compliance as used in this rule shall mean compliance with 70% or more of all rules applicable to a facility's classification as stated herein, and, additionally, shall mean compliance with 70% or more of all rules applicable to a facility's classification in each section of these rules. "Section" as used in this definition means the entire area or subject matter under a given rule, e.g., 11 MCAR § 2.401, 2.402 etc.

W. Corporal punishment. Physical punishment, any kind of punishment inflicted on the body, such as whipping or slapping.

11 MCAR § 2.403 Procedures for licensing.

A. Legal basis. Licensing authority. The Minnesota Department of Corrections (the Commissioner) is authorized to establish procedures for licensing CCF Adult Halfway Houses through the authority of Minn. Stat. § 241.021, subd. 1 (1978).

B. All Adult Halfway Houses will be inspected pursuant to Minn. Stat. § 241.021, subd. 1 and all such inspections shall be according to the standards set forth herein.

C. Procedures. Original application for license.

1. New applicants shall file application to the Commissioner of Corrections at least thirty (30) days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

2. Materials to be filed with Adult Halfway House license applications:

a. A statement regarding the philosophy, purpose and function of the program.

b. A statement regarding the administration and organization of the CCF (i.e., information on the governing body and administrator who are responsible for policy making, and administering and operating the facility). See Organization and Administration, § 2.408.

c. A copy of the Articles of Incorporation and bylaws, if incorporation is required.

d. A copy of the constitution and bylaws if not incorporated.

e. A list of the board members and committees, including names, addresses and telephone numbers.

f. An outline of the CCF's program.

g. A list of other facilities which the operator or governing board has operated or is currrently operating (either in or out of state).

h. The financial arrangements for the residents.

i. The arrangements for the provision of social services.

j. The arrangements for the provision of medical and dental services.

k. At least three letters of reference for the facility administrator.

l. A record of the satisfactory medical examination of each staff member (refer to Personnel, § 2.416).

m. A copy of personnel policies.

n. A copy of intake policies and procedures.

o. A floor plan of the facility with designated room dimensions.

p. Evidence of approval by the fire, safety and health departments.

q. Evidence of compliance with local zoning ordinances.

D. Renewal license.

1. Application for relicensure shall be submitted to the Commissioner at least thirty (30) days prior to the expiration date. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Community Correctional Facility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

2. Material to be filed with Adult Halfway House license renewal application:

a. A current list of board members and committees.

b. A record of satisfactory medical examinations for each staff member. (A staff information sheet will be provided by the Commissioner.)

c. A report of major changes in the program or facility during the year or contemplated for the coming year.

d. Building plans for any contemplated construction giving room dimensions, specifications and use.

e. Evidence of approval by the fire, safety, and health departments.

E. Provisional license.

1. A provisional license will be: 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) shall be issued for another maximum six (6) month period if the facility is not yet in compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional license shall not be renewed so as to exceed one (1) year.

2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Community Corrections Facility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

a. A statement showing which initial requirements listed as conditions of the provisional license have been met; and/or

b. A statement of the plan for meeting the initial requirements listed as conditions of the provisional license which have not been met; and

c. A record of satisfactory medical examinations for each staff member. (A staff information sheet will be provided by the Commissioner.)

3. If, at the end of the six (6) month provisional period, the facility is in compliance with these rules a full license will be issued.

F. Conditions of license.

1. A license shall not be transferable. It shall apply only to the organization or person(s) to whom it is issued and to the building approved. The license shall expire automatically if there is a change in location, organization, procedure or policies, etc., which would affect either the terms of the license or the continuing eligibility for a license. In such cases, an original application for a license must again be filed. To avoid delay, the Commissioner shall be advised at once of any change so that he/she may determine if the change may be approved and the license modified accordingly.

2. Every license shall be restricted to a specified maximum capacity.

3. An Adult Halfway House must be licensed by the Commissioner in order to operate.

4. No persons shall be placed in an Adult Halfway House prior to its being licensed.

5. There is no fee for a state license.

G. Revocation, suspension, provision and denial of license. A license may be revoked, suspended, denied or made provisional by the Commissioner if the facility does not maintain compliance with minimum standards, or the facility may be denied a license on the basis of a poor operating history in this or any state. The operator shall be given written notice of the action and shall be given thirty (30) days to comply with minimum standards before action is taken. Failure, inability or refusal to comply with licensing procedures shall be cause for denial, non-renewal, revocation, or suspension of the license.

H. Restriction of the use of a CCF. The Commissioner may by written order restrict the use of any Adult Halfway House, which does not substantially conform to the minimum standards, or, where specific conditions exist which endanger the health, welfare or safety of residents or staff, prohibit the detention of persons therein for more than seventy-two (72) hours.

I. Waiver of Specific Rule. The granting of a waiver under this section shall not constitute a precedent for any other CCF. The Commissioner shall grant a waiver of a specific rule, if, in the licensing procedure or enforcement of the standards the Commissioner finds that:

1. To require a particular Community Correctional Facility to comply strictly with one or more of the provisions will result in undue hardship;

2. The Community Correctional Facility is otherwise in compliance with said standards and their general purpose and intent;

3. The Community Correctional Facility complies with such specific condition(s) as the Commissioner may deem necessary for the protection of the health, safety, and welfare of the residents.

J. Study of application. Following the receipt of the application and materials requested, the Commissioner shall cause a study of the proposed services and facilities of the applicants to be made. This study shall include, but not be limited to, an on-site inspection of the facilities and investigation of references. Following the study, the representative who conducted the study shall make a recommendation to the Commissioner.

K. Notice to the applicant of Commissioner's action. After the application for license is approved by the Commissioner, the applicant shall receive by mail a license which, as provided by Minn. Stat. § 241.021, shall set forth the conditions under which the CCF may operate. The terms of the license shall include the operating name of the CCF, the maximum number, age range and sex of the residents to be served, and the period of time for which the license is effective, and may include other limitations which the Commissioner may prescribe. An accompanying letter shall contain, in addition to the limitations on the license, any recommendation regarding activities, services, and facilities to be employed. A letter shall accompany a provisional license and state the reason(s) for its being provisional.

L. Appeal procedure. Any applicant who feels aggrieved by the Commissioner's action may appeal the Commissioner's decision in the following manner: The facility administrator shall be given written notice of the action and shall be informed of the right to appeal the decision of the Commissioner in writing within ten (10) days from his or her receipt of notice of the action. Upon receiving a timely written appeal, the Commissioner shall give the facility administrator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner.

M. When a CCF license has been revoked or not renewed because of non-compliance with applicable laws or rules, it shall not be granted a new license for a period of one (1) year following the revocation, denial or non-renewal.

N. Failure of the Commissioner to approve or deny an application within thirty (30) days of receipt of a completed application shall be deemed to be an approval of provisional license.

11 MCAR § 2.404 Severability.

If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

11 MCAR § 2.408 Organization and administration of Adult Halfway Houses.

A. The public or private agency operating an established Adult Halfway House shall be a legal entity or part of a legal entity.

1. If an Adult Halfway House is to operate as a non-profit corporation, it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. § 317, particularly as it relates to governing boards and annual audits.

2. If an Adult Halfway House is to operate as a private profit making corporation it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. ch. 300.

B. Policy making. The governing board shall have a written policy clearly stating its purposes, the program and services offered. This will be done in a form suitable for distribution to staff, clients, referral sources, funding agencies and the general public.

C. The governing board of the Community Correctional Facility shall hold meetings at least quarterly with the administrator in order to facilitate communications, establish policy, explore problems, ensure conformity to legal and fiscal requirements, and implement the program.

D. The CCF shall maintain records of its activities, including the minutes of board meetings, financial data and statistical information. All records are subject to review by the Commissioner.

E. The policy manual shall be reviewed annually by the governing board, and updated when necessary.

F. The CCF shall identify, document and publicize its tax status with the Internal Revenue Service.

G. The CCF shall have a constitution or articles of incorporation which meet all of the legal requirements of the governmental jurisdiction in which the agency is located.

H. The program shall be managed by a single administrative officer who shall implement the policies of the board.

I. The CCF shall have a system to monitor the program through inspections and reviews by the administrator or designated staff.

J. The CCF shall have an operations manual which summarizes in one document approved methods of implementing agency policies and provides details for daily operations of the program.

K. Bylaws shall meet all the legal requirements of the governmental jurisdiction in which the CCF is located, and shall include provisions for regular and special meetings, and for recording of minutes.

L. Each facility must substantially comply with all applicable licensing requirements of the jurisdiction in which it is located, including requirements of the department of health and all relevant fire and safety codes.

11 MCAR § 2.412 Fiscal management of Adult Halfway Houses.

A. The facility administrator or designated employee shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the funding authority.

B. The CCF shall have written policies which govern revisions in the budget.

C. The CCF fiscal process shall include a financial audit (preferably certified) of the CCF, at least annually, or at time periods stipulated by applicable statutes.

D. The CCF shall prepare and distribute to its governing board, and affected agencies and individuals, at a minimum the following: income and expenditure statements, funding source, financial reports, and independent audit reports.

E. The CCF shall have a written fiscal system which accounts for all income and expenditures on an ongoing basis and which shall include: internal controls, petty cash, bonding, signature control on checks, resident funds and employee expense reimbursement.

F. The CCF shall use a method which documents and authorizes wage payment to employees and consultants.

G. Insurance coverage. The CCF shall have a procedure to provide insurance coverage for itself, which shall include coverage for the physical plant, equipment, personnel and injury to employees, residents and third parties.

11 MCAR § 2.416 Personnel.

A. Personnel policies.

1. There shall be written personnel polices for personnel employed by the CCF, which specify salaries, increments, hours of work, work schedule, vacations, holidays, sick leave, periodic performance evaluation (at least annually), and other conditions of employment.

2. Personnel policies shall be available to each employee upon employment. The program shall inform each employee of the duties assigned to him/her, a position and organizational chart indicating the person to whom he/she is directly responsible, and general conditions which constitute grounds for dismissal and suspension, and a grievance procedure. The grievance procedures shall allow the aggrieved party to bring the grievance to at least one level above his/her supervisor.

3. The personnel policies shall be available to the Commissioner.

B. The policies shall include provisions for time off, vacation, sick leave, disability, and other employee benefits.

C. During the absence of regular staff for time off, vacation, and sick leave, arrangements shall be provided to ensure consistent care of the residents.

D. The CCF shall have staff available or on call twenty-four (24) hours a day, and seven (7) days a week.

E. The ratio of staff to licensed capacity shall be: not less than one (1) direct service staff person for every eight (8) residents.

F. The CCF shall make provisions for, and allow time for a confidential personnel record to be kept for each staff member which should include date of beginning and end of employment, hours, salary or wages, qualifications, evaluations, resume, references, and training sessions.

G. Training program.

1. The CCF shall provide an orientation session for new employees and new volunteers.

2. The CCF shall provide a minimum of eighteen (18) hours per year of ongoing in-service training programs to help staff and volunteers meet the individual and group needs of residents.

3. The CCF shall provide ongoing cultural awareness training sessions for staff and volunteers working with minority residents.

4. It is mandatory that at least one employee on each shift, who is providing direct service to residents has First Aid Training. Training shall be provided by a Red Cross instructor or a licensed health professional.

5. First Aid Training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three (3) years.

6. Time shall be available for staff and volunteers to participate in job related training.

7. When residents need special services, staff shall be able to refer them to other resources in the community.

H. Each staff member shall have a mantoux test or chest x-ray annually.

I. Qualifications of staff.

1. For all education requirements, experience in the human services fields may be substituted for education. The CCF shall have a written policy which outlines experience and educational substitutes if the program permits such substitutes.

2. The facility administrator shall have at least a Bachelor of Arts Degree in any of the human services fields (or a substitute as provided in 1 above); and two (2) years of work experience in corrections, social service and/or administration.

3. The direct service staff shall have work, education, or volunteer experience in corrections or related fields and shall be selected on the basis of ability to perform assigned tasks.

4. Persons providing professional services shall have achieved recognition to practice in their respective professions, including but not limited to license, certificaton, or registration required under state laws (psychiatrists, psychologists, social workers, probation and parole officers, etc.).

J. Volunteers with training and supervision may be used to assist staff of the CCF. If volunters are used:

1. The Community Correctional Facility shall establish requirements for the selection of volunteers.

2. The Community Correctional Facility and the individual volunteer shall agree on the latter's job assignment. The volunteer's responsibility shall be clearly differentiated from other staff members.

3. If a volunteer is to be used in a capacity normally filled by a paid staff member he/she must meet the same qualifications as a paid staff member.

4. Responsibility for the volunteer program shall be assigned to a specific staff member.

K. All employees, including volunteers, providing direct service to residents shall be at least eighteen (18) years of age.

11 MCAR § 2.418 Admissions and placement policies.

A. Admissions policies. The CCF shall establish clearly defined and written admissions policies and procedures, which will state the age range, sex and characteristics of acceptable clients. Admission policies shall be available to be disseminated to all referral sources and the Commissioner.

B. Admission form. The CCF and/or agent making the referral shall complete an initial admission information form on each client to be admitted into residency which, unless prohibited by local ordinance, includes at a minimum:

1. Name;
2. Address;
3. Date and place of birth;
4. Sex;
5. Reason for referral;
6. Whom to notify in case of emergency;
7. Date information gathered;
8. Signature of both interviewee and interviewer gathering information;
9. Name of referring agency of committing authority;
10. Special medical problems or needs;
11. Legal status, including jurisdiction, length and conditions of placement;
12. Financial arrangements for medical care;
13. Financial arrangements for care.

C. Medical examination. A CCF shall not keep residents in care unless they have had a medical examination ninety (90) days prior to or thirty (30) days after admission to ascertain the existence of any physical disability or communicable disease.

D. Orientation. At the time of intake, the staff shall discuss program goals, services available, rules governing conduct, program rules, and possible disciplinary actions with the participants; this shall be documented.

E. Progress reports. Each resident's progress shall be continuously reviewed in relation to his/her service plan and a written record of review shall be maintained.

F. Completion of or termination from program. The prospective resident shall be informed at the time of intake what expectations there are for completion of and/or successful termination from the program of the CCF.

11 MCAR § 2.420 Program.

A. Project staff and resident shall develop and agree upon a written treatment plan that specifies:

1. The identified needs of the resident;

2. The expected goals and objectives of the individualized plan to be used;

3. The participation of the resident, staff, support services and community resources in the attainment of these goals and objectives;

4. Counseling shall be offered to help the resident with problems that affect his/her ability to have satisfying personal relationships, to realize the capacity for growth, to help the person cope with the crisis of living in a restrictive environment, and to help persons to return to normal living in the community.

B. The agency shall have written policy and procedures which provide increasing opportunities and privileges for resident involvement with family and in community affairs prior to final release.

C. Involvement in the community.

1. To ensure that resident accessibility to community resources is maximized and existing services are not duplicated the facility administrator shall develop, and if appropriate, maintain participation or support services consistent with project's mission statement and service delivery plan.

2. The CCF shall use community resources where appropriate to provide residents with the following services, including, but not limited to:

a. Assisting residents in learning to use leisure time constructively;

b. Assisting residents in finding suitable employment;

c. Assisting residents in locating financial assistance through community resources;

d. Assisting residents in education and vocational training programs;

e. Assisting residents with services to become self-sufficient, including, but not limited to, assistance in obtaining housing, transportation, medical, dental services or money management.

D. Work assignments and work program.

1. Required work assignments should be appropriate to residents' ages and ability and residents shall not be required to perform work which is inappropriate for them for physical reasons. Reasonable

criteria for safety measures shall be established when work could be deemed hazardous.

2. Residents shall not be required to perform duties such as: personal duties for staff or replacing employed staff without pay.

3. Staff members shall check and inform residents of applicable minimum wage law, health and safety laws, social security, labor union fees and requirements, etc.

4. Program shall have a written policy with respect to periodic checks of residents at their place of employment.

5. Staff shall not enter into business arrangements or financial transactions with residents.

E. House rules.

1. There shall be clearly defined policies and procedures allowing the resident input into:

a. The development of house rules;

b. The decision making process.

2. The program shall establish a method whereby residents and staff:

a. Review group, resident or community problems;

b. Review old rules, new rules, or changes in rules, plans and procedures in the CCF.

3. There shall be a written grievance procedure made available to each resident which outlines rules of the facility, residents' rights, and order of the grievance procedure.

F. Religion. Each resident has the right to freedom of religious affiliation and voluntary religious worship, providing that the exercise of these rights does not directly interfere with the reasonable security and discipline of the facility.

11 MCAR § 2.424 Nutrition and food.

A. When the CCF provides or contracts for food service, the service shall comply with and meet all sanitation and health codes as promulgated by state or local authorities.

B. Dietary Service. The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, Food and Nutrition Board, National Research Council, National Academy of Sciences, 8th Edition, 1974. Providing each resident the specific serving per day from each of the following four food groups will satisfy this requirement.

(1) Meat or Protein Group.

Two or more servings per day.
A serving within this group is defined as:

2-3	ounces cooked, lean, edible meat
2	medium eggs
4	tablespoons peanut butter
1	cup dry beans

(2) Milk Group.

Two servings per day.
A serving is defined as:

1	cup of milk
1	ounce of cheese
1/2	cup cottage cheese

(3) Cereal and Bread Group.

Four or more servings per day
A serving is defined as:

1/2 to 1	slice of bread
1/2 to 3/4	cup cereal
1/2 to 3/4	cup of rice
1/2 to 3/4	cup of pasta

(4) Fruit and Vegetable Group.

Four or more servings per day
A serving is defined as:

1/2	cup potatoes
1/2	cup cooked vegetables
4	pieces raw vegetables
1/2	cup fruit
1	cup juice (citrus, etc.)

C. A minimum of three (3) meals a day shall be available for residents unless an agreement states otherwise.

11 MCAR § 2.428 Special procedures.

A. Discipline and disciplinary action. Discipline should be considered as training to assist residents in the development of self-control, character, and orderly conduct. Informal resolution of conflicts should be considered prior to taking formal disciplinary action. Should disciplinary action be necessary the following rules shall be observed:

1. The CCF shall have written policies which shall be available to the residents, and to staff regarding methods used for control and discipline.

2. All disciplinary action shall be the responsibility of staff members and shall not be delegated to other residents or persons outside of the program unless special skills are needed to handle the situation.

3. Residents shall not be denied food, mail, or sleep as punishment.

4. Corporal punishment shall not be used.

5. Physical force shall be used only in instances of justifiable self-protection, protection of others, and prevention of property damage, and only to the degree necessary and in accordance with appropriate statutory authority; such action shall be documented and placed on file.

B. Room restriction, facility restriction and privilege suspension.

1. Written policy and procedures shall ensure that room restriction does not exceed eight (8) hours and is used only under the following conditions: the resident is dangerous to himself/herself or others; and/or there is strong evidence to indicate he/she is about to abscond.

2. Written policy and procedures shall ensure that prior to room restriction the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

3. During room restriction staff contact shall be made with the resident at least hourly to ensure the well being of the resident; the resident shall assist in the determination of the end of the restriction period.

4. Written policy and procedures shall ensure that prior to privilege suspension the resident has the reasons for the suspension explained to him/her, and has an opportunity to explain the behavior leading to the suspension.

5. Written policy and procedures shall ensure that prior to facility restriction (grounding) for up to forty-eight (48) hours, the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

6. Written policy and procedures shall ensure that prior to facility restriction for more than forty-eight (48) hours there is an administrative hearing by a person or panel of staff who are not directly involved in the incident leading to the restriction.

7. All instances of room restriction, privilege suspension and facility restriction shall be logged, dated and signed by staff implementing the discipline procedure; the log shall be reviewed by supervisory staff at least daily.

8. Where extended confinement is necessary, a detention facility (with which previous arrangements have been made) shall be used.

C. Security procedures. Written policies regarding security measures are necessary and shall include:

1. A written plan shall allow staff to monitor movement into and out of the facility, under circumstances specified in the plan.

2. The staff shall maintain a system of accounting for the whereabouts of its residents at all times.

3. The CCF shall have written procedures for the detection and reporting of absconders.

4. The CCF shall notify appropriate probation officers, parole officers and/or other relevant officials as soon as it has been determined that a resident has run away or is missing.

5. Any general security restrictions must allow for individual protection, as well as protection for others, and must be part of the written program policy.

6. Written policy and procedures prohibit weapons of any kind from being brought into or kept on the program grounds.

7. A key inventory system shall be enforced that helps provide staff and resident safety and privacy needs, and assists in protecting and preserving personal property.

D. Personal possessions.

1. Each resident shall be allowed to bring appropriate personal possessions to the CCF and shall be allowed to acquire possessions of his/her own to the extent the facility is able to accommodate secure storage of them.

2. The CCF shall have written definitions of what will be considered contraband.

3. Information shall be made available to the residents, family members and friends concerning what personal possessions and kinds of gifts are prohibited.

E. Relative to public reports, statements, or appearances.

1. Residents shall not be required to make public statements acknowledging their gratitude to the program and shall not be required to perform or appear at public gatherings.

2. The CCF shall not use reports or pictures from which residents can be identified without written consent from the resident.

a. The signed consent form shall be on file at the CCF before any reports or pictures from which residents can be identified are used.

b. The signed consent form shall indicate on how many occasions the information shall be used.

F. Searches. In compliance with applicable laws, the CCF shall maintain and make public, written policies and procedures for conducting searches of residents, their belongings, and all areas of the facility to control contraband and locate missing or stolen property.

11 MCAR § 2.432 Physical facility.

A. The facility shall comply with all applicable codes, ordinances and licensing regulations of the state and/or local jurisdiction in which the facility is located. These shall include, but not be limited to: zoning codes; building codes; housing codes; health and fire codes.

1. It is the responsibility of the facility administrator to request necessary inspections and to comply with any resulting recommendations noted in the inspection reports.

2. Written documentation that all building and zoning codes, fire, health and safety rules are met shall be on file at the CCF and/or conspicuously posted in the facility.

B. Written policy and procedures shall specify the facility's fire prevention regulations and practices to ensure the safety of staff, residents and visitors. These shall include, but not be limited to:

1. Provision for an adequate fire protection service;

2. A system of fire inspection and testing of equipment determined by the local fire official;

3. Smoke detectors;

4. Fire drills and extinguishers.

C. There shall be written plans and procedures for meeting potential disasters and emergencies, such as fire, severe weather or other emergencies. All staff shall be familiar with the procedures for meeting potential disaster.

D. Building. Building and grounds shall be maintained, repaired and cleaned so that they are not hazardous to the health and safety of residents and staff.

1. New or renovated buildings. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be suitably aligned with the purpose of the Adult Halfway House and shall be submitted to the following authorities for approval:

a. Office of the State Fire Marshal;

b. Local zoning and/or building departments;

c. Local health department;

d. The Commissioner.

2. Heating equipment shall be in good condition, vented, and shall be capable of maintaining consistent uniform temperatures as well as eliminating drafts. A comfortable temperature range shall be maintained in all rooms occupied by residents.

3. Bedrooms.

a. Single bedrooms shall provide at least seventy (70) square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are one hundred (100) square feet of useable floor area with a side dimension of not less than nine (9) feet.

b. Multi-bed bedrooms shall provide at least sixty (60) square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one (1) foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bed bedrooms shall provide at least eighty (80) square feet of useable floor area. Multi-bed bedrooms for active, non-ambulatory, mobile residents shall be at least one hundred (100) square feet per resident. Mobility space at the end and one side of each bed shall be not less than four (4) feet per resident.

c. Bedrooms for non-ambulatory mobile residents shall have adequate accessible space for storage of wheel chairs and other prosthetic or adaptive equipment for daily out of bed activity or acceptable similar storage space shall be provided outside the bedroom readily and handily accessible to the resident.

d. In new or remodeled buildings, bedrooms shall accommodate no more than four (4) residents.

4. Each resident shall be provided, at a minimum: bed; mattress; supply of bed linen and towels; chair; adequate lighting; and closet/locker space.

5. Separate bedrooms.

a. Male and female residents shall not occupy the same bedrooms.

b. Youths and adults shall not share bedrooms except in approved circumstances by the facility administrator.

6. Counseling space and visiting room.

a. Private counseling space shall be provided in the facility.

b. Space shall be provided to accommodate group meetings.

c. A visiting area shall be provided where residents may receive and talk with visitors privately.

7. Every facility shall be equipped with adequate and conveniently located toilet rooms for its employees and residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet to every ten (10) residents and at least one (1) washbasin for every six (6) residents. At least one (1) bath or shower shall be available for every eight (8) residents.

8. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every twenty (20) residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

E. Transportation.

1. Written policy and procedures shall govern the use and maintenance of facility and resident motor vehicles.

2. Transportation shall be available for use in emergencies.

F. Environment. The governing body shall designate who is permitted to live in the facility.

1. A CCF shall not have roomers or boarders in the facility without special permission from the facility administrator.

2. The CCF shall keep the Commissioner notified as to the presence of all persons living in a CCF other than staff and residents.

3. Staff may live in the CCF as appropriate and with approval of the facility administrator.

4. A CCF shall not concurrently hold a license for family day care, or group day care without prior approval by the Commissioner.

11 MCAR § 2.436 Health care and medical services.

A. The facility administrator shall ensure written policies and procedures for use by staff in all medical, dental, and psychological difficulties.

B. Medical coverage shall be determined for each resident upon admission to the program.

C. Written policies and procedures shall clarify for the staff what medical care may be given by them without specific orders from a licensed medical doctor. The staff shall be instructed as to how to obtain further medical care and how to handle emergency cases.

D. The program health care plan shall adhere to State and Federal laws and rules regarding distribution of medications. The plan shall stipulate that medications be administered only as instructed by a licensed physician.

E. The facility administrator shall establish policies and procedures for reviewing the use, as well as the storage and dissbursement of prescription drugs.

F. Written policy shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes.

G. One staff member on each shift of the residential program shall be trained in emergency first aid procedures.

H. The CCF shall maintain working relations with community health care agencies in order to assist residents in meeting their health needs.

I. The CCF shall have first aid equipment, which meets American Red Cross standards available at all times for medical emergencies.

11 MCAR § 2.440 Records and evaluation.

A. Residents.

1. The CCF shall maintain accurate and complete case records, reports and statistics necessary for the conduct of its program. Appropriate safeguards shall be established to protect the confidentiality of the records, and minimize the possibility of theft, loss or destruction.

2. Form and content of case records.

a. In addition to the data required in the intake study, the resident's record shall include consent for necessary dental, medical and surgical treatment, and hospitalization.

b. The CCF shall keep records or have access to ongoing medical information, when available, which shall include:

(1) Dental examinations;

(2) Reports of any illness or injury and treatment given;

(3) Psychological examinations and treatment given, if any;

(4) Use of drugs;

(5) Routine physical examinations and other medical contacts.

c. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

(1) Reports of significant incidents, both positive and negative, and changes in family situation;

(2) Future planning;

(3) Summary of resident's development;

(4) Grievance and disciplinary actions, if any.

d. All correspondence relevant to the resident shall be kept in the record.

e. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

(1) Name;

(2) Date and place of birth;

(3) Sex;

(4) Religion;

(5) Race;

(6) Names and addresses of person(s) to be contacted in event of emergency;

(7) Date of admission;

(8) Insurance policy numbers, medical number (if any);

(9) Name of probation officer, parole officer, or welfare worker;

(10) Date of termination;

(11) Special medical problems or needs;

(12) Financial arrangements for medical care;

(13) Legal status, including jurisdiction, length and conditions of placement;

(14) Financial arrangements for care.

3. All dissemination on data on residents will be in accord with the Minnesota Government Data Practices Act. All information is public, unless otherwise classifed by state statute, federal law, or emergency or temporary classification

4. The content of the resident's record and data collected by the CCF shall be shared with individuals or agencies directly involved in the resident's treatment plan. When such information is provided, residents shall be informed. All dissemination of residents' records and information shall be governed by Minn. Stat. § 15.162, subds. 3., 5., and 5.a., and any other applicable state or federal law.

5. Except in situations covered by aforementioned part 3, the CCF shall provide that a Release of Information Consent Form shall be signed by the resident immediately before each release of information concerning the resident is completed, and a copy of the consent form shall be maintained in the resident's record.

6. The CCF shall have a written policy which conforms at a minimum to applicable federal law, that relates to the Release of Information Consent Form, which includes:

a. Name of person, agency or organization requesting information;

b. Name of person, agency or organization releasing information;

c. The specific information to be disclosed;

d. The purpose or need for the information;

e. Date consent form is signed;

f. Signature of the resident;

g. Signature of an individual witnessing resident signature.

7. The CCF shall have a written policy which specifies the length of time a case record must be maintained.

8. Residents shall have access to their files as permitted by law.

B. Personnel records.

1. The CCF shall maintain an accurate personnel record on each employeee which shall include, at minimum:

a. Initial application;

b. Reference letters;

c. Appropriate results of employment investigation;

d. Training and experience verification;

e. Wage and salary information;

f. Job performance evaluation completed at least annually;

g. Training programs which the employee participated in after employment began;

h. Documentation of sick leave, leave of absence and vacation;

i. Grievance and disciplinary actions, if any;

j. Health and medical reports;

k. Dates of employment and termination with reason for termination.

2. Employees shall have access to their personnel files.

C. Facility records. The board shall maintain records of its activities, including the minutes of board meetings, financial data and statistical information.

D. Evaluation.

1. The CCF shall have an organized system of information collection, retrieval and review to document their program.

2. Written policy and procedures shall govern voluntary participation in non-medical and non-pharmaceutical research programs.

Chapter 2: Group Foster Homes

11 MCAR § 2.444 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other state regulating agencies. The rules which follow are intended to fulfill that requirement for all correctional Group Foster Homes.

B. The Commissioner of Corrections, has, pursuant to Laws of 1978, ch. 778, Sec. 6, appointed a citizens' advisory task force to assist in the development of rules contained herein.

C. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of Group Foster Homes.

D. Compliance with the requirements stated herein is the responsibility of the Group Foster Parents.

11 MCAR § 2.445 Definitions. Definitions for the purpose of these rules are as follows:

A. "Youth" are persons who are under eighteen (18) years of age.

B. "Department of Corrections", "Department", or "DOC" shall mean Minnesota State Department of Corrections.

C. "Commissioner" shall mean Commissioner of the Minnesota State Department of Corrections or his designee.

D. "Applicant" shall mean any person(s), agency or organization applying for a license or renewal of license under this rule.

E. "License" shall mean a certificate issued by the Commissioner authorizing the operator to provide specified services for a period of a year in accordance with the terms of the license, Minn. Stat. § 241.021, and the rules of the Commissioner.

1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) shall be issued for another six (6) month period if the applicant is temporarily unable to substantially comform with the requirements of these rules.

2. "Renewal license" is a license issued for a period subsequent to the period for which the license was issued and where there has been no intervening period during which a license has been revoked.

3. "Revocation of license" means that the operator of a facility shall no longer be authorized to provide services.

4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial conformance with licensing requirements.

F. "Waiver" means a written permission from the Commissioner to disregard a particular section of a licensing rule.

G. "Group Homes", "Group Foster Homes" or "GFH" shall mean a residential facility where not more than eight (8) delinquent youths are cared for by Group Foster Parents on a twenty-four (24) hour a day basis.

H. "Sponsoring agency" is the body which formulates the policies and procedures governing a Group Foster Home. The bodies include but are not limited to: Community Corrections Board, County Court Services, State of Minnesota Department of Corrections, Community Corrections Departments, and non-profit corporations.

I. "Governing Board" (only applies in the case of privately operated Group Foster Home programs) is the body which formulates the policies and procedures governing a Group Foster Home, this body being composed of, at a minimum, the offices of president, secretary, treasurer and the administrator of the program, a local representative from the community, and additional membership according to the size and function of the individual program.

J. "Coordinator" is an individual who coordinates the operations of all of the Group Foster Homes within a single county.

K. "Group Foster Parents" means the person(s) who carry(ies) out the continuing daily living program in a Group Foster Home and provide(s) care to the youths. The Group Foster Parents may be a married couple or a single adult who is twenty-one (21) years of age or older.

L. "Resident" is a youth participating in a Group Foster Home program.

M. "Program" is a plan, procedure or activity for dealing with youth in a Group Foster Home.

N. "Service plan" is a design for helping the youth reach the goal of placement.

O. "Supervising agent" is the probation officer or parole agent working with an individual youth or with a set of youths living in a single Group Foster Home, or the equivalent of a Supervising Agent in privately operated homes.

P. "Significant others" are persons who are important in the life of the resident.

Q. "Leave of absence" is a period of up to twelve (12) months during which a set of Group Foster Parents do not provide foster care for any youths.

R. "Contraband" are those items designated by the GFH as unauthorized or unapproved on the physical premises of the facility.

S. "Substantially conform" or "substantial compliance" as used in this rule shall mean compliance with 70% or more of all rules applicable to a facility's classification as stated herein, and, additionally, shall mean compliance with 70% or more of all rules applicable to a facility's classification in each section of these rules. "Section" as used in this definition means the entire area or subject matter under a given rule, e.g., 11 MCAR 2.445, 2.446, etc.

11 MCAR § 2.446 Procedures for licensing.

A. Legal basis. The Minnesota State Department of Corrections (the Commissioner) is authorized to establish procedures for licensing Group Foster Homes which are maintained and operated in conformity with the rules and standards authorized by Minn. Stat. § 241.021, (1978).

B. All Group Foster Homes will be inspected pursuant to Minn. Stat. § 241.021, and all such inspections shall be according to the standards set forth herein.

C. Original application for license.

1. New applicants shall file application with the Commissioner of Corrections thirty (30) days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

2. Materials to be filed with Group Foster Home license application:

a. A completed application for license on the form issued by the Commissioner;

b. At least three (3) letters of reference for the Group Foster Parent(s) and for any employee involved in child care. References must not be from Department employees nor relatives of the persons referred.

c. An outline of the Group Foster Home's program (ex: philosophy, purpose and function of the program). If a single governing body or Sponsoring agency operates more than one (1) Group Foster Home, the manual of the governing body or sponsoring agency will suffice;

d. The intake policy and procedures (including sex, age and interview policies);

e. Evidence that sometime during the twelve months prior to initial licensure, and annually thereafter, each person living in or working in the home has had a mantoux test or chest x-ray;

f. A floor plan of the Group Foster Home with designated room dimensions;

g. A list of other facilities which the operator has operated or is currently operating (either in or out-of-state).

h. Written documentation that all fire and safety, and health rules, and zoning ordinances are met.

3. As part of the application, the Group Foster Parents shall assist the Sponsoring agency in making a preliminary home study. This study shall include an inspection of the facility and an investigation into the family's background and references. The Sponsoring agency shall then make a recommendation to the Commissioner as to whether a license shall be granted or denied.

D. Renewal license.

1. Application for relicensure shall be submitted to the Commissioner at least thirty (30) days prior to the expiration date (or date of recontinuance of a GFH after a leave of absence). Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Group Foster Home, qualifications of the Group Foster Parents, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

2. Materials to be filed with Group Foster Home license renewal application:

a. Evidence that sometime during the twelve (12) months prior, each Group Foster Parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray;

b. A record of major changes in the program or facility during the year or contemplated for the coming year;

c. Building plans for any contemplated construction giving room dimensions and specifications and use.

d. Written documentation that all fire and safety, and health rules, and zoning ordinances are met.

E. Provisional license.

1. A provisional license will be 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) shall be issued for another maximum six (6) month period if the facility is not yet in substantial conformance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional licenses shall not be renewed so as to exceed one (1) year.

2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Group Foster Home, qualifications of the Group Foster Parents, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

a. A statement showing which initial requirements listed as conditions of the provisional license have been met; and/or

b. A statement of the plan for meeting the intital requirements listed as conditions of the provisional license which have not been met; and

c. Evidence that sometime during the twelve (12) months prior each Group Foster Parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray.

3. If, at the end of the six (6) month provisional period, the facility is in substantial conformance with these rules, a full license will be issued.

F. Conditions of license.

1. A license shall apply only to the organization or person(s) to whom it is issued and to the buildings approved. The license shall expire automatically if there is a change in location, organization, procedure and policies, or a structural modification or addition to the physical facility, which would affect either the terms of the license or the continuing eligibility for a license. In such cases, an application for a transfer of license must be filed. To avoid delay, the Commissioner shall be advised at once of any change so that he/she may determine if the change may be approved and the license modified accordingly. An application for a transfer of license shall include:

a. An outline of any proposed changes in the Group Foster Home's program (ex: philosophy, purpose and function of the program);

b. Any changes in the intake policy;

c. A new floor plan of the Group Foster Home with designated room dimensions.

2. Before any structural modifications or additions to the physical facility are made, the plans shall be approved by the Commissioner.

3. Every license shall be restricted to a specified maximum capacity. No regular GFH shall be licensed with a maximum capacity so high as to allow more than ten (10) youths (including both foster youths and the youths in the Group Foster Parents' natural family) to live in the GFH.

4. There is no fee for a state license.

5. No persons shall be placed in a Group Foster Home prior to its being licensed.

6. GFH licenses will be issued by the Department of Corrections for a specific number of residents, not exceeding eight (8) youth.

G. Jurisdictional licensing requirements. Each GFH must substantially comply with all applicable licensing requirements of the jurisdiction in which it is located, including requirements of the local board of health and all relevant fire and safety codes.

1. It is the responsibility of the Group Foster Parents to request the necessary inspections and to comply with any resulting recommendations noted in the inspection reports.

2. Written documentation that all fire, health and safety rules are met shall be on file with the Commissioner. In those jurisdictions where a Fire Marshal report is not required, the applicants shall complete and submit a Fire Safety Checklist supplied by the Commissioner.

3. All Group Foster Parents shall be familiar with the plans and procedures such as fire, severe weather or other emergencies.

H. Waiver of Specific Rule. The granting of a waiver under this section shall not constitute a precedent for any other GFH. The Commissioner shall grant a waiver of a specific rule, if in the licensing procedure or enforcement of the standards, the Commissioner finds that:

1. To require a particular Group Foster Home to comply strictly with one or more of the provisions will result in undue hardship;

2. The Group Foster Home is otherwise in substantial comformance with said standards and their general purpose and intent;

3. The Group Foster Home complies with such specific condition(s) as the Commissioner may deem necessary for the protection of the health, safety, and welfare of the residents.

I. Study of the application. Following the receipt of the application and materials requested, the Commissioner shall cause a study of the proposed services and facilities of the applicants to be made. This study shall include an on-site inspection of the facilities and an investigation of references. Following the study, the representative of the Commissioner who conducted the study shall make a recommendation to the Commissioner.

J. Notice to the applicant of Commissioner's action. After the application for license is approved by the Commissioner, the applicant shall receive by mail a license which, as provided by Minn. Stat. § 241.021, shall set forth the conditions under which the GFH may operate. The terms of the license shall include the operating name of the GFH, the maximum number, sex and age range of the residents to be served, and the period of time for which the license is effective, and may include other limitations which the Commissioner may prescribe. An acompanying letter shall contain in addition to the license, any recommendation regarding activities, services, and facilities to be employed. A letter shall accompany a provisional license and shall state the reason(s) for its being provisional.

K. Provision, revocation, suspension and denial of license. A provisional license may be granted if the facility does not substantially conform with licensing requirements. The facility will be given a specified period of time in which to do so, pending revocation or suspension of license if the requirements are not met. A license may be revoked and suspended by the Commissioner if the facility does not maintain compliance with the minimum standards; or if an applicant has violated any federal or state law; or if the applicant has a poor operating history in this state or any other state.

L. Restriction of the use of a GFH. The Commissioner may by written order restrict the use of any Group Foster Home, which does not substantially conform to the minimum standards, or where specific conditions exist which endanger the health, welfare or safety of residents or staff, prohibit the detention of persons therein for more than seventy-two (72) hours.

M. Appeal procedure for denial, suspension and revocation of license. Any applicant who feels aggrieved by the Commissioner's action may appeal the Commissioner's decision in the following manner: The operator shall be given written notice of action and shall be informed of the right to appeal the decision of the Commissioner. The operator must appeal the decision in writing to the Commissioner within ten (10) days from the operator's receipt of the notice of action. Upon receiving a timely written appeal, the Commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner.

N. When a GFH license has been revoked or not renewed because of non-compliance with applicable laws, it shall not be granted a new license for a period of one (1) year following the revocation, denial or non-renewal.

O. Failure of the Commissioner to approve or deny an application within thirty (30) days of receipt of a completed application shall be deemed to be an approval of provisional license.

11 MCAR §2.450 Severability.

If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

11 MCAR § 2.456 Group Foster Parent qualifications.

A. Group Foster Parents shall be mature and responsible, and have the ability to deal openly with the emotions and problems of youth. The Group Foster Parents must also command the respect of youths and be able to firmly discipline them in a constructive way. The Group Foster Parents must also be willing to cooperate with the Commissioner, the Supervising agent, the Court and all other agencies that are involved in the youths' welfare.

1. A GFH license shall not be issued or renewed where any person (except foster youth) living in the household has any of the following characteristics:

a. A conviction for, or admission of, or substantial evidence of an act of child battering, or child abuse, or child molesting, or child neglect, or incest within the previous five (5) years. Reasonable methods of discipline shall not constitute child battering, child abuse, child molesting, child neglect or incest.

b. Chemical dependency, unless the individual is identified as chemically free for at least twenty-four (24) consecutive months.

c. Residence of the family's own children in foster care, correctional facility, or residential treatment for emotional disturbance within the previous twelve (12) months if, in the judgment of the Sponsoring Agency, the functioning of the family has been impaired.

d. Felony conviction within the previous three (3) years, or release from incarceration for a felony conviction within the previous three (3) years.

e. Misdemeanor conviction within the previous twelve (12) months, or release from incarceration for a misdemeanor conviction within the previous twelve (12) months.

B. All Group Foster Parents shall be at least twenty-one (21) years of age at the time of licensure.

C. Physical handicap of Group Foster Parents shall be a consideration only as it affects their ability to provide adequate care to foster youths or may affect an individual youth's adjustment to the family.

D. When all adults in the GFH are employed or otherwise occupied for substantial amounts of time away from home, the plans for care and supervision of the foster youths shall be approved in advance by the Commissioner. At least one Group Foster Parent shall be available at all times in case of emergency.

11 MCAR § 2.460 Health of persons living in the Group Foster Homes.

A. Evidence that sometime during the twelve (12) months prior to initial licensure, and annually thereafter, each person living in the home has had a mantoux test or chest x-ray.

B. When in the judgment of the licensing authority, any person in the home who exhibits a health problem, an evaluation may be requested of the person as a requirement for licensing.

11 MCAR § 2.464 Training for Group Foster Parents.

A. Every set of Group Foster Parents shall participate in a minimum of eighteen (18) hours annually of training related to foster care. The eighteen (18) hours may be shared between the Group Foster Parents in the home. When the Group Foster Parents have not completed the required annual training at the time of relicensure, no further placements may be made in that GFH until the Group Foster Parents have complied with the training requirements.

1. The following areas of training are recommended, but are not limited to:

a. Child and adolescent development;

b. Communicaton skills;

c. Roles and relationships in foster care;

d. Methods of discipline;

e. Constructive problem solving;

f. The meaning of a foster youth's natural parents;

g. Home safety;

h. Human sexuality.

2. First Aid Training.

a. First aid training is mandatory for all Group Foster Parents. Training shall be provided by a Red Cross instructor or a licensed health professional.

b. First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three (3) years.

B. Group Foster Parents who wish to take a leave of absence from foster care for up to twelve (12) months, may have all or part of the requirements waived in proportion to the length of the leave of absence. If the leave of absence exceeds twelve (12) months, the parents shall reapply for a new license.

C. The Group Foster Parents shall make suitable arrangements for the care of foster youths for any periods of vacation or emergency; and the Supervising agent or Coordinator shall approve the arrangements. Substitute Group Foster Parents shall have the same qualifications as the regular Group Foster Parents (see Group Foster Parent Qualifications, § 2.456), and shall have access to Group Foster Parents' training opportunities (see Training for Group Foster Parents § 2.464).

11 MCAR § 2.470 Program.

A. Orientation. At the time of intake, Group Foster Parents shall discuss program goals, service(s) available, rules governing conduct, program rules, and possible disciplinary actions with the residents; this shall be documented.

B. Service plan. A service plan shall be developed and shall be implemented based on the special needs of each resident.

C. The Group Foster Parents shall continuously review each resident's progress in relation to his/her service plan, and a record of the review shall be maintained.

D. The GFH's plan shall make some provisions for the following considerations:

1. Contact with resident's family and significant others;

2. Visitation policies;

3. Involvement in the community.

11 MCAR § 2.474 Special procedures.

A. House rules.

1. There may be regular group meetings to help:

a. Review common problems of the group, or the group's problem with a resident, or a community problem;

b. Develop positive approaches to community participation;

c. Consider formulation of rules, plans and procedures in the GFH.

2. The Group Foster Parents shall be responsible for ensuring that a copy of the written grievance procedure written by the governing body or the Sponsoring Agency shall be available to each resident. The procedure shall outline rules of the facility, residents' rights and the actual grievance procedure.

B. Written emergency (fire, medical, accident, etc.) plans shall be conspicuously posted in the facility.

C. Discipline should be considered as training to assist residents in the development of self-control, character and orderly conduct. Informal resolution of conflicts should be considered prior to taking formal disciplinary action.

1. Residents shall not be subjected to denial of food, medication, mail or sleep as punishment.

2. Physical force shall be used only in instances of justifiable self-protection, prevention of property damage and protection of others, and only to the degree necessary and in accordance with appropriate statutory authority; such action shall be documented and placed on file in the Group Foster Home.

3. Violation of statutory authority with respect to physical abuse shall be grounds for restriction of the GFH's license.

D. Room Restriction, Facility Restriction and Privilege Suspension.

1. Room restriction shall not exceed eight (8) hours. The resident shall be observed by a Group Foster Parent or staff person at least hourly.

2. Prior to room restriction, facility restriction or privilege suspension the resident shall have the reasons for the restriction or suspension explained to him/her, and have an opportunity to explain the behavior leading to the restriction or suspension.

3. All instances of room restriction, privilege suspension and facility restriction shall be logged, dated and signed by the Group Foster Parent(s) implementing the disciplinary procedure; the log shall be reviewed by the supervising agent or coordinator.

E. Security procedures. Group Foster Parents shall be accountable for the whereabouts and conduct of residents who have been referred by a court or the Department of Corrections.

1. Group Foster Parents shall monitor movement into and out of the GFH and account for the whereabouts of its residents outside of the GFH.

2. The Group Foster Parents shall notify appropriate probation officers, parole officers and/or relevant officials as soon as it has been determined that a resident is missing or has run away.

3. Any weapons in the GFH shall be securely stored and shall be the responsibility of the Group Foster Parents.

F. Personal communication. To encourage residents to maintain or develop close relationships with members of their family, friends, relatives, communication channels shall be as open as is possible.

1. Mail policy. Residents' mail, both incoming and outgoing shall not be intercepted except where there is reasonable ground to justify such action. If mail is to be read, such action shall be documented.

2. Use of telephone. Written policy shall provide that residents have access to a telephone to make and receive private calls, and shall state any rules that prohibit access.

G. Personal possessions.

1. Each resident shall be allowed to bring appropriate personal possessions to the GFH and shall be allowed to acquire possessions of his/her own to the extent the GFH is able to accommodate secure storage of them.

2. Group Foster Parents may inspect residents' possessions for contraband if there are reasonable grounds to believe that contraband is present.

H. Relative to public reports, statements or appearances.

1. Residents shall not be required to make public statements acknowledging their gratitude to the program and shall not be required to perform or appear at public gatherings.

2. The Group Foster Parents, Supervising Agent or Coordinator shall not use reports or pictures from which a resident can be identified without written consent from the resident and his/her parents or legal guardians.

a. The signed consent forms shall be on file before any reports or pictures from which residents can be identified are used.

b. The resident shall be informed that he/she has the right to withdraw his/her consent at any time.

MCAR § 2.478 Physical facility.

A. Building.

1. Location. In metro areas, the GFH shall be located so that it is accessible to schools, transportation, hospitals, clinics, mental health resources, churches, libraries, and recreational-cultural facilities. In rural areas, a transportation plan to provide accessibility is sufficient.

2. Bedrooms.

a. Single bedrooms shall provide at least seventy (70) square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are one hundred (100) square feet of useable floor area with a side dimension of not less than nine (9) feet.

b. Multi-bedrooms shall provide at least sixty (60) square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bedrooms shall provide at least eighty (80) square feet of useable floor area. Multi-bedrooms for active, non-ambulatory, mobile residents shall be at least one hundred (100) square feet per resident. Mobility space at the end and one side of each bed shall be not less than than four (4) feet, per resident.

c. Bedrooms for non-ambulatory mobile residents shall have adequate accessible space for storage of wheel chairs and other prosthetic or adaptive equipment for daily out of bed activity or acceptable similar storage spaces shall be provided outside the bedroom readily and handily accessible to the resident.

d. In new or remodeled buildings, bedrooms shall accommodate no more than four (4) residents.

3. Each resident shall be provided, at a minimum, with bed; mattress; supply of bed linen and towels; chair; adequate lighting; and closet/locker space.

4. Separate bedrooms.

a. Male and female residents shall not occupy the same bedrooms.

b. Youth and adults shall not share bedrooms except in circumstances approved by the Supervising Agent.

5. Counseling space and visiting room.

a. Space shall be provided to accommodate group meetings.

b. A visiting area shall be provided where resident may receive and talk with visitors privately.

6. Bathroom facilities.

a. Every facility shall be equipped with adequate and conveniently located toilet rooms for its residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet and at least one (1) washbasin for every eight (8) residents.

b. At least one bath or shower shall be available for every eight (8) residents.

7. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every sixteen (16) residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

8. Dining room. The dining area shall comfortably accommodate, at one time, all of the foster youths plus the natural family living in the GFH.

B. Environment.

1. A GFH may not concurrently hold a license for family day care, or group day care without prior approval by the Commissioner.

2. All persons living in the GFH shall first be approved by the Coordinator or the Sponsoring Agency.

3. The Group Foster Parents shall not admit nor dismiss any youth without the authority of the Commissioner, the Juvenile Court, or the youth's Supervising agent.

4. The Commissioner and any Supervising agent shall have access to the GFH for evaluation at any time during normal working hours and at other times by mutual agreement. For the purpose of investigating complaints concerning the health and safety of the youths, the Commissioner and any Supervising agent shall have access to the GFH at any time during the twenty-four (24) hour day.

11 MCAR § 2.482 Health care and medical services.

A. Group Foster Parents shall be responsible for assisting in arranging for medical and dental care for each resident.

B. If a resident is suspected of having a communicable disease, the Group Foster Parents shall see that he/she is given a physical examination by a qualified physician and any necessary treatment.

C. Medications shall be administered only as instructed by a licensed physician.

D. All medical records shall be maintained including office visits, medications given, dosage, time period and the signature of the person administering the medication. (See Records, § 2.490.)

E. The GFH shall have first aid equipment, which meets American Red Cross standards available at all times for medical emergencies.

11 MCAR ¢ 2.486 Nutrition and food.

A. When the GFH provides or contracts for food service, the service shall comply with and meet all sanitation and health codes as promulgated by state or local authorities.

B. Dietary Service. The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, Food and Nutrition Board, National Research Council, National Academy of Sciences, 8th Edition, 1974. Providing each resident the specific serving per day from each of the following four food groups will satisfy this requirement.

(1) Meat or Protein Group.

Two or more servings per day.
A serving within this group is defined as:

2-3	ounces cooked, lean, edible meat
2	medium eggs
4	tablespoons peanut butter
1	cup dry beans

(2) Milk Group.

Four servings per day.
A serving is defined as:

1	cup of milk
1	ounce of cheese
1/2	cup cottage cheese

(3) Cereal and Bread Group.

Four or more servings per day
A serving is defined as:

1/2 to 1	slice of bread
1/2 to 3/4	cup cereal
1/2 to 3/4	cup of rice
1/2 to 3/4	cup of pasta

(4) Fruit and Vegetable Group.

Four or more servings per day
A serving is defined as:

1/2	cup potatoes
1/2	cup cooked vegetables
4	pieces raw vegetables
1/2	cup fruit
1/2	cup juice (citrus, etc.)

C. A minimum of three (3) meals a day shall be available for residents unless an agreement states otherwise. The Group Foster Parents shall ensure that the youths receive adequate meals during the day while they are in community activities. This shall include participation in a school lunch program.

11 MCAR ¢ 2.490 Records.

A. Residents' records maintained by Supervising Agent, or Coordinator, or Sponsoring Agency.

1. A record shall be kept of ongoing medical information (when available), including:

a. Immunization;

b. Dental examination;

c. Reports of any illness or injury and treatment given;

d. Psychological examinations and treatment;

e. Use of drugs;

f. Routine physical examinations and other medical contacts;

g. Consent for necessary dental, medical and surgical treatment, and hospitalization.

2. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

a. Reports of significant incidents, both positive and negative, and changes in the family situation;

b. Plans which involve the resident;

c. Grievance and disciplinary actions.

3. Each record shall have a face sheet bearing factual data and identifying information. The Group Foster Parents are required to keep a copy of the face sheet which shall include the following:

a. Name;

b. Date and place of birth;

c. Sex;

d. Religion;

e. Race;

f. Name of person(s) to contact in emergencies;

g. Guardianship and custody;

h. Date of admission;

i. Insurance policy numbers, medical number, if any;

j. Name of probation officer, parole officer, or welfare worker;

k. Date of termination;

l. Special medical problems or needs;

m. Financial arrangements for medical care;

n. Legal status, including jurisdiction, length and conditions of placement;

o. Financial arrangements for care.

4. Group Foster Parents shall refer any individuals or agencies requesting resident data to the Supervising Agent of the youth.

B. Personnel. Group Foster Parents shall have access to their personnel files which are maintained by the Supervising Agent or Coordinator.

APPROVED AS TO FORM AND LEGALITY
DEC 13 1979 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 13 1979
Joan Anderson Growe
Secretary of State
2:50 PM

In the matter of the Proposed Adoption of Rules of the State Department of Corrections Governing:

FINDINGS OF FACT

MINIMUM STANDARDS FOR ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES

The above-entitled matter came on for hearing before the Hearing Examiner Peter Erickson, State of Minnesota Hearing Examiner's Office on the 19th day of July, 1979 at 9:00 A.M. in the (State Administration Building, St. Paul, Minnesota) after proper notice required by MS 1978 Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

Amended Findings of Fact

Chapter 1. Adult Halfway Houses

Corr. 402. Definitions

F. 1. Use of the word "substantial". We have deleted the word "substantial" when used in reference to full licensure, to reflect the Commissioner's findings that the word "substantial" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, subd. 1. We have also amended this rule by deleting the word "may" and inserted the word "shall". The Commissioner finds that in absence of specific criteria for the word "may" that the word "shall" is appropriate. We have amended the rule to read as follows:

1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) ~~may~~ shall be issued for another six (6) month period if the applicant is temporarily unable to ~~substantially~~ comply with the requirements of these rules.

F. 4. Use of the word "substantial". We have deleted the word "substantial" when used in reference to full licensure, to reflect the Commissioner's findings that the word "substantial" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, subd. 1. We have amended the rule to read as follows:

4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in ~~substantial~~ compliance with licensing requirements.

K. This definition has been amended consistent with the Hearing Examiner's findings #9 and testimony at the public hearing.

V. The basis for this definition of "substantially conform" or "substantial compliance" is to establish objective criteria to measure an agency's performance in respect to these rules.

W. "Corporal punishment". We have added this definition to clarify the term as used in these rules. This definition was added at the public hearing.

Corr. 403. Procedures for Licensing

C. 2. k. Was amended in a manner consistent with the Hearing Examiner's findings (#10.e.) and testimony at the public hearing.

C. 2. q. This rule was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's findings #10.E.

E. 1. Use of the word "substantial". We have deleted the word "substantial" when used in reference to full licensure, to reflect the Commissioner's findings that the word "substantial" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, subd. 1. We have also deleted the word "may" and inserted the word "shall". The Commissioner finds that in absence of specific criteria for the word "may" that the word "shall" is appropriate. We have amended the rule to read as follows:

1. A provisional license will be: 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) ~~may~~ shall be issued for another maximum six (6) month period if the facility is not yet in ~~substantial~~ compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional license shall not be renewed so as to exceed one (1) year.

E. 3. Use of the word "substantial". We have deleted the word "substantial" when used in reference to full license, to reflect the Commissioner's findings that the word "substantial" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, subd. 1. We have amended the rule to read as follows:

3. If, at the end of the six (6) month provisional period, the facility is in ~~substantial~~ compliance with these rules a full license will be issued.

H. Restriction of the use of a CCF. We have rewritten this section because the Commissioner finds that the language is unclear and is subject to erroneous construction; therefore, the language has been changed to reflect the intention of the Commissioner regarding the circumstances under which a facility may be restricted. This section is amended to read as follows:

H. Restriction of the use of a CCF. The Commissioner may by written order restrict the use of any Adult Halfway House, which does not substantially conform to the minimum standards, or , where specific conditions exist which endanger the health, welfare or safety of residents or staff, prohibit the detention of persons therein for more than seventy-two (72) hours.

I. Waiver of a specific rule.
We have amended this rule in two areas:
1) We have deleted the word "may" and inserted the word "shall".
2) In item I.2., we deleted the word "substantial" and inserted the word "otherwise".

The Commissioner finds that to give his office discretion to refuse to grant a waiver where enumerated conditions exist, constitutes too broad an exercise of discretion and is subject to arbitrary and capricious decision. The rule has been amended to make it mandatory a waiver shall be given if the Commissioner finds that the CCF:
1) otherwise complies with minimum standards;
2) conditions deemed necessary for the protection, safety and welfare have been met, but that compliance with a specific rule not affecting the protection, health, safety and welfare of the residents would constitute an undue hardship on the facility.

We have amended the rule to read as follows:

I. Waiver of Specific Rule. The granting of a waiver under this section shall not constitute a precedent for any other CCF. The Commissioner ~~may~~ shall grant a waiver of a specific rule, if, in the licensing procedure or enforcement of the standards the Commissioner finds that:

I. 2. On review, we find it necessary to amend this rule to emphasize that a waiver of a specific rule can be issued if the facility is otherwise in compliance with these standards. We have deleted the word "substantial" to reflect the Commissioner's findings that the word "substantial" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, subd. 1. This rule is amended as follows:

2. The Community Correctional Facility is otherwise in ~~substantial~~ compliance with said standards and their general purpose and intent;

L. We have deleted the erroneous references to the Hearing Examiner's Office and statutory reference. This was amended to reflect consistency with the Hearing Examiner's finding (8-29-79), #26.

M. The Commissioner concurs in the findings of the Hearing Officer that the denial of license over a period of 1-5 years is too broad and not supported by appropriate criteria. Accordingly, the Commissioner has reconsidered the criteria and based on the experience of the Department of Welfare, has determined a period of one year is adequate penalty and provides sufficient time which the facility can be brought into compliance with Minnesota Statutes. Refer to the Hearing Examiner's Report 8-29-79, item 10 (E)-1.

Corr. 408. Organization and Administration of Adult Halfway Houses

C. This was added to reflect consistency with testimony at the public hearing and the Hearing Examiner's findings #12.C.

F. By deleting this item, the items following E. have been relettered, F., G., H., I., J., K., and L.

Corr. 412. Fiscal Management of Adult Halfway Houses

G. This was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding, #13.a.

Corr. 416. Personnel

E. This was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding, #14.C.

I. 3. This was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding, #14.C.

Corr. 420. Program

D. 2. renumbered D. 5. Reflects consistency with testimony at the public hearing and the Hearing Examiner's finding #16.a.

Corr. 424. Nutrition and Food

B. We have re-evaluated this section following the recommendation of the State Board of Health and the United States Department of Agriculture. The changes in this rule are due to the updating of material contained in the Recommended Dietary Allowances, National Academy of Sciences, Eighth Edition, 1974. This material was incorporated by reference through the Chief Hearing Examiner's Office on November 21, 1979. The rule has been amended as follows:

~~B. Dietary Service. Food and nutritional allowances for residents shall be in accordance with the provisions of Minnesota State Board of Health Rule 395 (C) (1974). The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, National Academy of Sciences, 7th Edition, 1968. Providing each resident the specific serving per day from each of the following five food groups will satisfy this requirement:~~

~~(1) Meat or Protein Group. Two or more servings per day. A serving of meat or protein is defined as: 2-3 ounces cooked (equivalent to 3-4 ounces raw) of any meat without bone, such as beef, pork, lamb, poultry, or variety meats such as liver, heart and kidney.~~

~~2 slices prepared luncheon meat.~~
~~2 eggs.~~
~~2 ounces of fresh or frozen cooked fish or shellfish or ½ cup canned fish.~~
~~1 cup cooked navy beans.~~

~~(2) Milk Group. Two or more servings per day. A serving is defined as 8 ounces (one cup) of milk. A portion of this amount may be served in cooked form, such as cream soups, desserts, etc.~~
~~1 ounce of cheese for 3/4 cup milk.~~
~~½ cup cottage cheese for 1/3 cup milk.~~
~~½ cup ice cream for ¼ cup milk.~~

~~(3) Vegetable Group. Three or more servings per day, one of which is deep green or yellow. A serving is defined as ½ cup.~~

~~(4) Fruit Group. Two or more servings per day, one of which is citrus (i.e., orange, grapefruit) or tomatoe. A serving of citrus fruit or tomatoe is defined as:~~
~~1 medium orange or 4 ounces of orange juice.~~
~~½ grapefruit or 4 ounces of grapefruit juice.~~
~~1 large tomatoe or 8 ounces of tomatoe juice.~~

~~(5) Cereal and Bread Group. Three to four servings per day of whole grain or enriched products. A serving is defined as:~~
~~1 slice of bread.~~
~~½ cup cooked cereal.~~
~~3/4 cup dry cereal.~~
~~½ cup macaroni, rice or noodles.~~

B. Dietary Service. The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, Food and Nutrition Board, National Research Council, National Academy of Sciences, Eighth Edition, 1974.

(1) Meat or meat alternate group.

Two or more servings per day.

A serving within this group is defined as:

2-3 ounces cooked, lean, edible meat.
2 medium eggs.
4 tablespoons peanut butter.
1 cup dry beans.

(2) Milk group.

Two servings per day.

A serving is defined as:

1 cup of milk.
1 ounce of cheese.
½ cup cottage cheese.

(3) Bread and cereal group.

Four or more servings per day.

A serving is defined as:

½ to 1 slice of bread.
½ to 3/4 cup cereal.
½ to 3/4 cup of rice.
½ to 3/4 cup of pasta.

(4) Fruit and vegetable group.

Four or more servings per day.

A serving is defined as:

½ cup potatoes.
½ cup cooked vegetables.
4 pieces raw vegetables.
½ cup fruit.
1 cup juice (citrus, etc.)

Corr. 432. Physical Facility

D. 3. b. We have amended this rule to reflect testimony at the public hearing and the Hearing Examiner's finding #19.a.

Corr. 436. Health Care and Medical Services

B. We have amended the rule to reflect testimony at the public hearing and the Hearing Examiner's finding #20.C.

Corr. 440. Records and Evaluation

A. We have added section 3 to reflect Mr. Rogers Adams' recommendations and the Hearing Examiner's findings #21.C. This addition has been numbered 3. The following sections have been renumbered 4., 5., 6., 7., and 8.

4. We have amended this rule following the recommendation by Assistant Attorney General James Bradford and by the Hearing Examiner's finding #21.C.

8. Amended to clarify the rule and made consistent with the Hearing Examiner's finding #21.C.

Chapter II. Group Foster Homes

Corr. 445. Definitions

E. 1. Provisional license. We have amended this rule in two ways:
1) We have deleted the word "comply" and inserted the word "conform", and,
2) Deleted the word "may" and inserted the word "shall".

Use of the word "comply". We have deleted the word "comply" and inserted the word "conform" to reflect the Commissioner's finding that the word "comply" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, Subd. 2.

Use of the word "may". We have deleted the word "may" and inserted the word "shall" to reflect the Commissioner's finding that in absence of specific criteria for the word "may" that the word "shall" is appropriate. We have amended the rule to read as follows:

E. 1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) ~~may~~ shall be issued for another six (6) month period if the applicant is temporarily unable to substantially ~~comply~~ conform with the requirements of these rules.

E. 4. Suspension of license. We have deleted the word "compliance" and added the word "conformance" in accordance with Minnesota Statute 241.021, subd. 2. We have amended the rule as follows:

E. 4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial ~~compliance~~ conformance with licensing requirements.

S. The basis for the definition of "substantially conform" or "substantial compliance" is to establish objective criteria to measure an agency's performance in respect to these rules. See Hearing Examiner's Report 8-29-79 #10 (E) 3.

Corr. 446. Procedures for Licensing

C. h. and D. 2. d. have been rewritten to clarify that written documentation is evident, that all fire, safety, health and zoning ordinances are met and is consistent with the finding of the Hearing Examiner's finding #24.a.

E. 1. Provisional license. We have amended this rule in two ways:
1) We have deleted the word "compliance" and inserted the word "conformance", and
2) We have deleted the word "may" and inserted the word "shall".

Use of the word "compliance". We have deleted the word "compliance" and inserted the word "conformance" to reflect the Commissioner's finding that the word "compliance" is inconsistent with the legislative intent as provided in Minnesota Statute 241.021, subd. 2.

Use of the word "may". We have deleted the word "may" and inserted the

word "shall". The Commissioner finds that in absence of specific criteria for the word "may., that the word "shall" is appropriate. We have amended the rule as follows:

E. Provisional license.

1. A provisional license will be 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) ~~may~~ shall be issued for another maximum six (6) month period if the facility is not yet in substantial ~~compliance~~ conformance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional licenses shall not be renewed so as to exceed one (1) year.

E. 3. End of six month period. We have amended this rule in one way which is to delete the word "compliance" and add the word "conformance" in accordance with Minnesota Statute 241.021, subd. 2. The rule is amended to read as follows:

E. 3. If, at the end of the six (6) month provisional period, the facility is in substantial ~~compliance~~ conformance with these rules, a full license will be issued.

F. 6. We have added this section to clarify the fact that the agency will license for specific numbers of youth. See Hearing Examiner's finding #h.23.a.

H. Waiver of a specific rule. We have replaced the word "regulation" with the word "rule" following the Hearing Examiner's finding #24. Additionally, we have amended the rule in two areas:

1) We have deleted the word "may" and inserted the word "shall". The Commissioner finds that to give his office discretion to refuse to grant a waiver where enumerated conditions exist, constitutes too broad an exercise of discretion and is subject to arbitrary and capricious decision. The rule has been amended to make it mandatory a waiver shall be given if the Commissioner finds that the GFH:
   1) otherwise complies with minimum standards;
   2) conditions deemed necessary for the protection, safety and welfare have been met, but that compliance with a specific rule not affecting the protection, health, safety and welfare of the residents would constitute an undue hardship on the facility.
2) In H.2., we have deleted the word "compliance" and inserted the word "conformance". Additionally, we have inserted the word "otherwise" before the words "in substantial conformance". The Commissioner finds that it is necessary to insert the word "conformance" to come into accordance with Minnesota Statute 241.021, subd. 2. The Commissioner additionally finds that it is necessary to emphasize that a waiver of a specific rule can be issued if the facility is otherwise in compliance with these standards. The rule is amended to read as follows:

H. Waiver of Specific Rule. The granting of a waiver under this

section shall not constitute a precedent for any other GFH. The Commissioner ~~may~~ shall grant a waiver of a specific rule, if in the licensing procedure or enforcement of the standards, the Commissioner finds that:

H. 2. The GFH is otherwise in substantial ~~compliance~~ conformance with said standards and their general purpose and intent;

K. Provision, revocation, suspension and denial of license. We have deleted the word "comply" and added the word "conform" in accordance with Minnesota Statute 241.021, subd. 2. The rule is amended to read as follows:

K. Provision, revocation, suspension and denial of license. A provisional license may be granted if the facility does not substantially ~~comply~~ conform with licensing requirements. The facility will be given a specified period of time in which to do so, pending revocation or suspension of license if the requirements are not met. A license may be revoked and suspended by the Commissioner if the facility does not maintain compliance with the minimum standards; or if an applicant has violated any federal or state law; or if the applicant has a poor operating history in this state or any other state.

L. Restriction of the use of a GFH. We have rewritten this section because the Commissioner finds that the language is unclear and is subject to erroneous construction; therefore, the language has been changed to reflect the intention of the Commissioner regarding the circumstances under which a facility may be restricted. This section is amended as follows:

L. Restriction of the use of a GFH. The Commissioner may, by written order, restrict the use of any Group Foster Home, which does not substantially conform to the minimum standards, or, where specific conditions exist which endanger the health, welfare or safety of residents or staff, prohibit the detention of persons therein for more than seventy-two (72) hours.

M. We have deleted the erroneous references to the Hearing Examiner's Office and statutory reference. Hearing Examiner's Report 8-29-79, finding #26.

N. The Commissioner concurs in the findings of the Hearing Officer that the denial of license over a period of 1-5 years is too broad and not supported by appropriate criteria. Accordingly, the Commissioner has reconsidered the criteria and based on the experience of the Department of Welfare, has determined a period of one year is an adequate penalty and provides sufficient time which the facility can be brought into compliance with Minnesota Statutes. See Hearing Officer's Report 8-29-79, item 10 (e) (1).

Corr. 456. Group Foster Parent Qualifications

A. 1. a. We have amended this rule by establishing a specific criteria (five years) as to when the Commissioner can review a facility license, if any person in the household has committed specific acts. This amendment reflects the Hearing Examiner's finding #26.

Corr. 474. Special Procedures

We have added this section in an effort to clarify the limitations to which group foster home parents can discipline residents. See Hearing Examiner's finding #30. We have lettered this section D and relettered the following sections E., F., G., and H.

Corr. 478. Physical Facility

A. 2. b. We have amended this rule to reflect testimony at the public hearing and the Hearing Examiner's findings #19.

Corr. 482. Health Care and Medical Services

A. We have amended this section so as to clarify the responsibility for arranging medical and dental care for residents.

Corr. 486. Nutrition and Food

B. We have re-evaluated this section following the recommendation of the State Board of Health and the United States Department of Agriculture. The changes in this rule are due to the updating of material contained in the Recommended Dietary Allowances, National Academy of Sciences, Eighth Edition, 1974. This material was incorporated by reference through the Chief Hearing Examiner's Office on November 21, 1979. The rule has been amended as follows:

~~B. Dietary Service. Food and nutritional allowances for residents shall be in accordance with the provisions of Minnesota State Board of Health Rule 395 (C) (1974). The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, National Academy of Sciences, 7th Edition 1968. Providing each resident the specified serving per day from each of the following five food groups will satisfy this requirement:~~

~~(1) Meat or Protein Group. Two or more servings per day. A serving of meat or protein is defined as:~~
~~2-3 ounces cooked (equivalent to 3-4 ounces raw) of any meat without bone, such as beef, pork, lamb, poultry, or variety meats such as liver, heart and kidney.~~
~~2 slices prepared luncheon meat.~~
~~2 eggs.~~
~~2 ounces of fresh or frozen cooked fish or shellfish or ½ cup canned fish.~~
~~1 cup cooked navy beans.~~

~~(2) Milk Group. Two or more servings per day. A serving is defined as 8 ounces (one cup) of milk. A portion of this amount may be served in cooked form, such as cream soups, desserts, etc.~~
~~1 ounce of cheese for 3/4 cup milk.~~
~~½ cup cottage cheese for 1/3 cup milk.~~
~~½ cup ice cream for ¼ cup milk.~~

~~(3) Vegetable Group. Three or more servings per day, one of which is deep green or yellow. A serving is defined as ½ cup.~~

~~(4) Fruit Group. Two or more servings per day, one of which is citrus (i.e., orange, grapefruit) or tomatoe. A serving of citrus fruit or tomatoe is defined as:~~
~~1 medium orange or 4 ounces of orange juice.~~
~~½ grapefruit or 4 ounces of grapefruit juice.~~
~~1 large tomatoe or 8 ounces of tomatoe juice.~~

~~(5) Cereal and Bread Group. Three to four servings per day of whole grain or enriched products. A serving is defined as:~~
~~1 slice of bread.~~
~~½ cup cooked cereal.~~
~~3/4 cup dry cereal.~~
~~½ cup macaroni, rice or noodles.~~

B. The food and nutritional needs of residents shall be met in accordance with their needs and shall meet the dietary allowances as stated in the Recommended Dietary Allowances, Food and Nutrition Board, National Research Council, National Academy of Sciences, Eighth Edition, 1974.

(1) Meat and meat alternate groups.

Two servings per day.

A serving within this group is defined as:

2-3 ounces cooked, lean, edible meat.
2 medium eggs.
4 tablespoons peanut butter.
1 cup dry beans.

(2) Milk group.

Four or more servings per day.

A serving within this group is defined as:

1 cup of milk.
1 ounce of cheese.
½ cup of cottage cheese.

(3) Bread and cereal group,

Four or more servings per day.

A serving within this group is defined as:

1 to 1 slice of bread.
½ to 3/4 cup cereal.
½ to 3/4 cup of rice.
¼ to 3/4 cup of pasta.

(4) Fruit and vegetable group.

Four or more servings per day.

A serving within this group is defined as:

½ cup potatoes.
½ cup cooked vegetables.
4 pieces raw vegetables.
½ cup fruit.
½ cup juice (citrus, etc.).

Corr. 490. Records

A. We have amended this section so as to clarify who shall maintain residents' records.

A. 3. We have amended this section to clarify what records the Group Foster Parents are required to maintain.

State of Minnesota
Department of Corrections

Commissioner of Corrections
Jack G. Young

Date: December 13, 1979

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING MINIMUM STANDARDS FOR ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.

ORDER ADOPTING RULES

The above entitled matter came on the hearing before the Hearing Examiner, Peter Erickson, Office of Hearing Examiners, State of Minnesota on the 19th day of July, 1979 at 9:00 A.M. (in the State Administration Building, Room 116A, St. Paul, Minnesota), after proper notice required by M.S. 1978 Sec. 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minimum Standards for Adult Halfway Houses and Group Foster Homes are adopted this 13th day of December, 1979, pursuant to authority vested in me by Minnesota Statutes Section 241.021, Subd. 1, (1978).

Commissioner of Corrections



Jack G. Young

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED)
ADOPTION OF THE RULES OF THE)
DEPARTMENT OF CORRECTIONS)
GOVERNING MINIMUM STANDARDS)
FOR ADULT HALFWAY HOUSES AND)
GROUP FOSTER HOMES.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on July 19, 1979, before Peter C. Erickson, 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 the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Corrections on August 29, 1979; and

WHEREAS, the Department of Corrections has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Corrections has submitted said rules 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 rules are not substantially different from those proposed at the public hearing and that the Department of Corrections has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Corrections has the responsibility of submitting the complete hearing record and the rules 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 9th day
of October, 1979.

Duane R. Harves
DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED)
ADOPTION OF THE RULES OF THE)
DEPARTMENT OF CORRECTIONS)
GOVERNING MINIMUM STANDARDS)
FOR ADULT HALFWAY HOUSES AND)
GROUP FOSTER HOMES.)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, on November 21, 1979, the Department of Corrections (hereinafter "Department"), by its Commissioner, Jack Young, submitted a request to the Chief Hearing Examiner for approval of the incorporation by reference of a certain document in the above-referenced rules; and

WHEREAS, pursuant to Minnesota Statutes, 1978, § 15.0412, subd. 4, agencies may incorporate by reference provisions of federal law or rule or other materials from sources which the Chief Hearing Examiner determines are conveniently available for viewing, copying and acquisition by interested persons; and

WHEREAS, the Chief Hearing Examiner has reviewed the Recommended Dietary Allowances, National Academy of Sciences, Eighth Edition, 1974, and has found it to be in excess of 3,000 words and has determined that it would exceed five pages of publication in the State Register; and

WHEREAS, the Department has indicated that the document is available for review at most public libraries and may be purchased through the National Academy of Science in Washington, D. C. and the Chief Hearing Examiner thus finds that the document is thereby conveniently available for viewing, copying and acquisition by interested persons.

NOW, THEREFORE, IT IS ORDERED, that the Department shall have the approval of the Chief Hearing Examiner to incorporate by reference in their rules the above-referenced document.

Dated this 21st day
of November, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

CORR-79-001-PE

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED)
ADOPTION OF THE RULES OF THE)
DEPARTMENT OF CORRECTIONS) ORDER OF THE
GOVERNING MINIMUM STANDARDS) CHIEF HEARING EXAMINER
FOR ADULT HALFWAY HOUSES AND)
GROUP FOSTER HOMES.)

WHEREAS, on October 5, 1979, the Department of Corrections submitted the above-entitled rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, on October 9, 1979, the Chief Hearing Examiner issued his report finding that the rules as proposed to be adopted were not substantially different from those proposed at the public hearing and that the Department of Corrections had met all requirements of Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Corrections subsequently submitted the rules and the record of the proceedings to the Attorney General for his review as to form and legality pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Attorney General recommended to the Department of Corrections that certain of the rules be amended; and

WHEREAS, the Department of Corrections has now resubmitted the rules to the Chief Hearing Examiner for his review; and

WHEREAS, the Chief Hearing Examiner finds that the changes made in the rules do not make the rules substantially different from those proposed at the public hearing.

NOW, THEREFORE, upon receipt of this report, the Department of Corrections has the responsibility of resubmitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been resubmitted to the Attorney General, and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 21st day
of November, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING MINIMUM STANDARDS FOR ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.

SUPPLEMENTAL REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, on October 5, 1979, the Department of Corrections submitted the above-entitled rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, on October 9, 1979, the Chief Hearing Examiner issued his report finding that the rules as proposed to be adopted were not substantially different from those proposed at the public hearing and that the Department of Corrections had met all requirements of Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Corrections subsequently submitted the rules and the record of the proceedings to the Attorney General for his review as to form and legality pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Attorney General recommended to the Department of Corrections that certain of the rules be amended; and

WHEREAS, the Department of Corrections resubmitted the rules to the Chief Hearing Examiner for his review; and

WHEREAS, the Chief Hearing Examiner issued a supplemental report regarding the issue of substantial change on November 21, 1979; and

WHEREAS, the Department of Corrections has requested that the November 21, 1979, report be withdrawn as further amendments have been made to the proposed rules; and

WHEREAS, the Department of Corrections has now resubmitted the rules to the Chief Hearing Examiner for his review; and

WHEREAS, the Chief Hearing Examiner finds that the changes made in the rules do not make the rules substantially different from those proposed at the public hearing.

NOW, THEREFORE, upon receipt of this Report, the Department of Corrections has the responsibility of resubmitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been resubmitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 5TH day of December, 1979.

DUANE R. HARVES
Chief Hearing Examiner

By: _____
GEORGE A. BECK
Hearing Examiner

ADDENDUM TO THE REPORT OF THE HEARING EXAMINER

The following Finding is hereby added to the Report of the Hearing Examiner on the above-entitled matter dated August 29, 1979:

FINDINGS OF FACT

35. The Hearing Examiner finds that CORR 403H and CORR 446L, as amended, do contain duplicated statutory language; however, they are crucial to the ability of persons affected by these rules to understand their meaning and effect.

Dated this 5 day of December, 1979.

Peter C. Erickson
PETER C. ERICKSON
Hearing Examiner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Corrections

TO : Lee S. Sheehy
Special Assistant Attorney General

DATE: October 29, 1979

FROM : John Stewart, Planner
Standards Development Unit

PHONE: 296-0140

SUBJECT: Establishing Minimum Standards for Adult Halfway Houses and Group Foster Homes

Due to an oversight, the following section was not corrected when the rule went to the Chief Hearing Examiner for his approval. We are requesting the following change in the rule 11 MCAR § 2.482 Health Care And Medical Services:

A. Group Foster Parents shall be responsible for ~~implementing~~ assisting in the arrangements for medical and dental ~~coverage~~ care for each resident.

If you should have any questions regarding this matter, please call me at the above number.

Thank you for your assistance.

JS/bs

cc: Duane R. Harves, Chief Hearing Examiner

RECEIVED
OCT 29 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JACK G. YOUNG, Commissioner
Department of Corrections

DATE: November 6, 1979

Attn: James Bradford

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of Proposed Rules Establishing Minimum Standards for Adult Half-Way Houses and Group Foster Homes

The above-captioned rules have not been approved by this office for the below-enumerated reasons. After agency consideration of these reasons and appropriate action, if any, the rules must be resubmitted to the Chief Hearing Examiner for his review prior to any resubmittal to this office. If the rules are resubmitted to this office, please ensure that the original of the Order Adopting and the original of the Rules as Adopted accompany the materials resubmitted, as they are necessary for filing with the Secretary of State.

The rules were not approved for the following reasons:

1. As noted in Hearing Examiner Finding No. 17, incorporation by reference of the nutritional standards of the National Academy of Sciences found in 11 MCAR §§ 2.424 and 2.486 must be approved by the Chief Hearing Examiner, as required by Minn. Stat. § 15.0412, Subd. 4.

2. The agency Findings of Fact submitted to this office are insufficient in two ways. First, the Findings of Fact are not signed by the promulgating authority. For an example of the proper format, see Exhibit G-2 to the Rules of the Attorney General regarding rulemaking procedures. Second, while the findings describe in part the basis for certain changes made in the rules as finally adopted, they fail to provide an adequate basis for the agency's decision in at least two instances. In Hearing Examiner Finding No. 10(e)(1), it was suggested that MCAR § 2.403 M, as proposed, was illegal. The agency in its findings eliminated the "1-5 year" range which was contained in the proposed rule and, thereby, eliminated the unbridled discretion which the Hearing Examiner found improper. However, the agency in its findings failed to give a basis for its choice of the one year standard in the rules as finally adopted. Agency findings must be supplemented

to establish the basis for the agency's choice. Finally, in response to Hearing Examiner Finding No. 10 (e)(3), the agency adopted specific requirements defining the concepts of substantial compliance and substantial conformity. However, the agency's findings failed to provide any basis for the standard chosen. Such a basis must be set forth in the findings.

3. This office is concerned about the agency's implementation in the rules relating to adult facilities of the statutory concept of "substantial conform(ity)." The first mention of the statutory standard appears in Minn. Stat. § 241.021, Subd. 1 (4), where, in its context, it appears to apply to the inspection of facilities which have been previously licensed. A question must be raised about the appropriateness of considering the "substantially conform" standard in the initial issuance of licenses, however.

Minn. Stat. § 241.021, subd. 1 (1) asserts that licensing is to be accorded in the first instance by application of "minimum standards. You will note that there is no suggestion of the "substantially conform" standard in that language. Instead, it suggests two alternative decisions: (i) granting a license because minimum standards have been achieved or (ii) granting a provisional license for the operation on a "temporary basis" for operators temporarily unable to comply with all licensing standards, i.e., they do not meet minimum standards. On the other hand, Subdivision 1 (4) asserts that the substantial conformity standard pertains to the revocation or restrictive certification of existing licenses. However, the adopted rules appear to contain considerations which do not correspond to this statutory formula.

For example, 11 MCAR § 2.403 (e)(3) suggests that an applicant may receive a full license if the facility is only in "substantial compliance" with the minimum standards set forth in the rules. The granting of a permanent license to a facility which fails to meet <u>minimum</u> standards appears contrary to the statutory yardstick offered in Minn. Stat. § 241.021, subd. 1 (1), where provisional licenses are provided where the operator is temporarily unable to comply with "<u>all</u> of the requirements for a license." (Emphasis added). This language implies a legislative intent of complete adherence to "minimum standards" in initial licensure, with provisional licenses to be afforded those temporarily unable to meet those minimum standards.

The legislature certainly understood the mechanism for including "substantial compliance" considerations in initial licensure decisions. Subdivision 2 of Minn. Stat. § 241.021 explicitly permits licensure of foster care facilities for delinquent children's use although a facility fails to meet the minimum standards. The provision reads: "(I)f such facility conforms to reasonable standards established by the commissioner

or in his judgment is making satisfactory progress toward substantial conformity therewith, and he is satisfied that the interest and well-being of the children and youth received therein are protected, he shall grant a license . . . " In this case, the legislature permitted licensure with less than full compliance with minimum standards but added a condition that the well-being of all participants must be protected. No such discretion for licensure with less than full compliance appears to exist in Subdivision 1, nor do the rules which create licensure with only substantial compliance provide the added protection evidenced in Subdivision 2, namely, assurances of protection of health, safety and welfare despite facilities only substantially complying with the minimum standards.

This office is not disapproving the rules for these reasons at this time. The complexity of the rules and underlying statute, the lack of understanding of legislative history, and the absence of any discussion by the agency or Hearing Examiner of this issue make it impossible to dispose of these questions on the record as it presently stands. We are, however, requesting the agency to address the concerns raised above and, where necessary, provide additional argument and legislative history relating to the agency's actions.

4. 11 MCAR § 2.403 L has an incorrect citation. The Minnesota Administrative Procedures Act citation contained at the end of that subdivision is incorrect.

5. Use of the word "may" in 11 MCAR § 2.403 I permits the agency unbridled discretion in a substantive area which effects the rights of and procedures available to the public. Rules should set forth every agency statement of general applicability and future effect regarding the public's rights and available procedures. Use of the word "may" in this waiver rule permits the agency to consider standards outside those listed in the rule. If the agency wishes to consider additional standards or criteria, they should be listed in the rule. Otherwise, the word "shall" must be used. Finally, the word "enforcement" and the word "finds" are misspelled in that rule.

6. Other errors which parallel the ones discussed above exist in the rules relating to group foster homes because of the identical language used in the Adult Halfway House rules and in the Foster Home Rules. Those errors should also be corrected. However, it should be noted that the statutory provisions relating to the implementation of the "substantial conformity" standard for group foster home licensing

differ from the statutory requirements relating to that concept as it pertains to adult halfway houses.

7. Please make the change required in the memorandum to me dated October 29, 1979, from John Stewart.

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

LES/bw
Enclosure
cc: Duane Harves
Marshall Whitlock

Our File #551

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 10/17/79 Temporary Rule _____

Resubmitted and Received 12/13

Lee 10/26

DUE DATE 11/6

a. Returned to Agency w/o filing w/Secy of State 11/6

b. Approved 12/13 Date Sent Back to Agency _____

- -

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. Certificate of Delivery of Secy. of State's List ✓ ? note re last pickup date + title
9. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
10. State Register Publication 30 days before ✓
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓ note Findings 10c, 24b + 26
13. Agency's Findings of Fact ✓ ?
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable no ref. to
17. Certificate of Compliance with Rulemaking Procedures ✓
18. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
19. Petition by Public, where applicable N/A

Our File #551

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 10-17-79 DUE DATE 11-6-79

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted X
2. Rules as Proposed X
3. Certificate of Board's Authorizing Resolution, where applicable _____
4. Order for Hearing X
5. Notice of Hearing X
   Sufficiency X
6. Secretary of State's List X (one copy only)
7. Certificate of Acquisition of Secretary of State's List X
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency X
9. Affidavit of Mailing X
   At least 30 days prior to hearing _____
10. Publication in State Register X
    At least 30 days prior to hearing _____
11. Statement of Need and Evidence X
12. Hearing Examiner's Report X
13. Agency's Findings of Fact X
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting X
16. Report of Chief Hearing Examiner X
17. Order Approving Incorporation by Reference, where applicable _____
18. Certificate of Compliance with Rulemaking Procedures X
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable _____
20. Petition by Public, where applicable _____

DRAFT

The agency has misapplied its statutory authorization. The first mention of the "substantially conform" standard appears in 241.021 (4), where, in its context, it clearly applies to the inspection of facilities which have been previously licensed. 241.021 (1) clearly asserts that licensing is to be accorded in the first instance by application of "minimum standards," which are to be promulgated "pursuant to chapter 15." You will note that there is no suggestion of "substantially conform" in that language. Instead, subdivision 1 openly suggests two alternative decisions: granting a license because minimal standards have been achieved, or granting a provisional license for operation on a "temporary basis" for operators "temporarily unable to comply" with licensing standards, e.g. they do not meet minimum standards. Implied in subdivision (1) is the power not to grant a license for failure to meet "minimum standards". On the other hand, Subd. (4) clearly asserts that the "substantial compliance" standard pertains to the revocation of existing licenses, whether full or temporary, after notice and hearing requirements are satisfied. You will additionally note that the statute sets no arbitrary 70% figure for such "substantial compliance." Instead, it clearly relates to "minimum standards" in Subd. (1), which are, according to the statute, matters of "management, operation, physical condition, and the security, safety, health, treatment and discipline of persons detained or confined therein." 240.021 (2) indicates that such "minimum standards" are to be substantially the same as those of other state agencies with corresponding responsibilities for similar correctional facilities.

These proposed and adopted rules, however, contain items which do not correspond to the statutory formula. For example, 11 MCAR 2.403 (E)(1) suggests that the "substantial compliance" test is to be afforded to applicants for provisional license. This is simply not the case -

"minimum standards" is the statutory yardstick offered in 241.021 (1), where provisional licenses are first discussed. Instead of "substantial compliance," the statute says that "provisional licenses may be provided" where the operator is temporarily unable to comply with all of the requirements for a license" (emphasis added). This language makes it clear that the legislature intended complete adherence to "minimum standards" to apply to licensure, and provisional licenses to be afforded to those temporarily unable to achieve those "minimum standards." However, 11 MCAR 2.403 (E)(1) makes it sound as if substantia and not full, compliance is the standard for full licensure, and a standard below "substantial compliance" is all that is required for a provisional license. This erroneous interpretation continues in 11 MCAR 2.403 (E)(3), where a provisional license becomes a full license if "substantial compliance" is found. Clearly, full compliance with health, safety and welfare minimum standards are the statutory intention before a full license is issued. Similarly, 11 MCAR 2.403 (H) misinterprets the statutory design. It is clear that 240.021 (4) intended that the restricted use order would immediately trigger revocation proceedings, yet the rule as written would allow such a condition to persist indefinitely, even if health, welfare or safety might be jeopardized.

Other examples exist, but the central point is that the agency has misinterpreted the statutory mandate. Full compliance with minimum standards is the statutory norm for licensure, while slightly less than full compliance is the standard for a provisional license. Only revocation proceedings trigger the implementation of the "substantial compliance" standard of 240.021 (4).

2. In the Hearing Examiner's Report, 10 (e), it was suggested that Carr 403 (M) allowed too much discretion to the Commissioner. The language of the offending rule was then changed from "1-5 years" to one year. Why just one year? Why not five? This point should have

been addressed in the agency's wholly inadequate findings of fact, but was not.

3. Hearing Examiner's Report 17 said that Minn. Rule MAD 394 (c) must be incorporated into the rule, or incorporated by reference. Neither was done. The same situation applies to Hearing Examiner's Report 33.

EXPENSE

PROPOSED RULES ESTABLISHING MINIMUM STANDARDS FOR ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES

— after amendments to Rules as published in State Register

DEPARTMENT OF CORRECTIONS
266 Metro Square Building
7th and Robert Streets
St. Paul, 55101

Tai Shigaki, Project Director
612-296-0140

Chapter 1 Adult Halfway Houses

11 MCAR § 2.401 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all Adult Halfway Houses.

B. The Commissioner of Corrections, has, pursuant to Laws of 1978, ch. 778, Sec. 6, appointed a citizens' advisory task force to assist in the development of rules contained herein.

C. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of Adult Halfway Houses.

11 MCAR § 2.402 Definitions. Definitions, for the purpose of these rules are as follows:

A. "Youth" are persons under eighteen (18) years of age.

B. "Adults" are persons eighteen (18) years of age or over.

C. "Department of Corrections", "Department" or "DOC" shall mean Minnesota State Department of Corrections.

D. "Commissioner" shall mean the Commissoner of the Minnesota State Department of Corrections or his designee.

E. "Applicant" is any person(s), agency or organization applying for a license or renewal of license under this rule.

F. "License" is a certificate issued by the Commissioner authorizing the operator to provide specified services for a period of a year in accordance with the terms of the license, Minn. Stat. § 241.021, and the rules of the Commissioner.

1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) may be issued for another six (6) month period if the applicant is temporarily unable to substantially comply with the requirements of these rules.

2. "Renewal license" is a license issued for a period subsequent to the period for which the license was issued and where there has been no intervening period during which a license has been revoked.

3. "Revocation of license" means that the operator of a facility shall no longer be authorized to provide services.

4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial compliance with licensing requirements.

G. "Community Correctional Facility" or "CCF" is any community based facility, public or private, including group foster homes, juvenile halfway houses, adult halfway houses and shelter facilites, having a residential component, the primary purpose of which is to serve persons placed therein by a court, court services department, parole authority, or other correctional agency having dispositional power over persons convicted of a crime or adjudicated to be delinquent.

H. "Adult Halfway House" means any community based residential facility, the primary function of which is to provide, through its own program or community resources, services to adults accused of, charged with, or convicted of a criminal offense.

I. "Waiver" is written permission from the Commissioner to disregard a particular section of a licensing rule.

J. "Residential facility" means any Community Correctional Facility which regularly provides twenty-four (24) hour a day care including food and lodging.

K. "Governing Board/Sponsoring Agency" is the body which formulates the policies and procedures governing a Community Correctional Facility, this body being composed, at a minimum, of the offices of president, secretary, treasurer, and the administrator of the program. In addition, there may be an advisory board, where appropriate, including membership from the specific target group and the immediate neighborhood population, and additional membership according to the size and function of the individual program.

L. "Facility administrator" refers to the administrator of the program, employed or appointed by the board or Sponsoring Agency, to implement its policies, programs and treatment plans.

M. "Supervising agent" is the parole/probation agent working with an individual resident or set of residents living in a single CCF.

N. "Program" is a plan, procedure or activity for dealing with residents in a Community Correctional Facility.

O. "Treatment plan" is a design for helping the resident reach the goal of rehabilitation.

P. "Contraband" are those items designated by the CCF as prohibited on the physical premises of the facility.

Q. "Significant others" are persons who are important in the life of the resident.

R. "Private corporation" includes any company, association, or body endowed by law with any corporate power or function, except such as are formed solely for public and governmental purposes, which shall be deemed public corporation.

S. "Non-profit corporation" means a corporation formed for a purpose not involving pecuniary remuneration, directly or indirectly, to its shareholders or members as such.

T. "Community Corrections Advisory Board" is the governing body that is responsible for a comprehensive plan under the Community Corrections Act in a county or group of counties.

U. "Target group" means a class of residents with a need for similar services arising primarily out of a particular type of disability, including but not limited to social disabilities resulting in contact with the correctional system.

11 MCAR § 2.403 Procedures for licensing.

A. Legal basis. Licensing authority. The Minnesota Department of Corrections (the Commissioner) is authorized to establish procedures for licensing CCF Adult Halfway Houses through the authority of Minn. Stat. § 241.021, subd. 1 (1978).

B. All Adult Halfway Houses will be inspected pursuant to Minn. Stat. § 241.021, subd. 1 and all such inspections shall be according to the standards set forth herein.

C. Procedures. Original application for license.

1. New applicants shall file application to the Commissioner of Corrections at least thirty (30) days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

2. Materials to be filed with Adult Halfway House license applications:

a. A statement regarding the philosophy, purpose and function of the program.

b. A statement regarding the administration and organization of the CCF (i.e., information on the governing body and administrator who are responsible for policy making, and administering and operating the facility). See Organization and Administration, § 2.408.

c. A copy of the Articles of Incorporation and bylaws, if incorporation is required.

d. A copy of the constitution and bylaws if not incorporated.

e. A list of the board members and committees, including names, addresses and telephone numbers.

f. An outline of the CCF's program.

g. A list of other facilities which the operator or governing board has operated or is currrently operating (either in or out of state).

h. The financial arrangements for the residents.

i. The arrangements for the provision of social services.

j. The arrangements for the provision of medical and dental services.

k. At least three letters of reference.

l. A record of the satisfactory medical examination of each staff member (refer to Personnel, § 2.416).

m. A copy of personnel policies.

n. A copy of intake policies and procedures.

o. A floor plan of the facility with designated room dimensions.

p. Evidence of approval by the fire, safety and health departments.

D. Renewal license.

1. Application for relicensure shall be submitted to the Commissioner at least thirty (30) days prior to the expiration date. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Community Correctional Facility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

2. Material to be filed with Adult Halfway House license renewal application:

a. A current list of board members and committees.

b. A record of satisfactory medical examinations for each staff member. (A staff information sheet will be provided by the Commissioner.)

c. A report of major changes in the program or facility during the year or contemplated for the coming year.

d. Building plans for any contemplated construction giving room dimensions, specifications and use.

e. Evidence of approval by the fire, safety, and health departments.

E. Provisional license.

1. A provisional license will be: 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) may be issued for another maximum six (6) month period if the facility is not yet in substantial compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional license shall not be renewed so as to exceed one (1) year.

2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Community Corrections Facility, qualifications of the staff, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

a. A statement showing which initial requirements listed as conditions of the provisional license have been met; and/or

b. A statement of the plan for meeting the initial requirements listed as conditions of the provisional license which have not been met; and

c. A record of satisfactory medical examinations for each staff member. (A staff information sheet will be provided by the Commissioner.)

3. If, at the end of the six (6) month provisional period, the facility is in substantial compliance with these rules a full license will be issued.

F. Conditions of license.

1. A license shall not be transferable. It shall apply only to the organization or person(s) to whom it is issued and to the building approved. The license shall expire automatically if there is a change in location, organization, procedure or policies, etc., which would affect either the terms of the license or the continuing eligibility for a license. In such cases, an original application for a license must again be filed. To avoid delay, the Commissioner

shall be advised at once of any change so that he/she may determine if the change may be approved and the license modified accordingly.

2. Every license shall be restricted to a specified maximum capacity.

3. An Adult Halfway House must be licensed by the Commissioner in order to operate.

4. No persons shall be placed in an Adult Halfway House prior to its being licensed.

5. There is no fee for a state license.

G. Revocation, suspension, provision and denial of license. A license may be revoked, suspended, denied or made provisional by the Commissioner if the facility does not maintain compliance with minimum standards, or the facility may be denied a license on the basis of a poor operating history in this or any state. The operator shall be given written notice of the action and shall be given thirty (30) days to comply with minimum standards before action is taken. Failure, inability or refusal to comply with licensing procedures shall be cause for denial, non-renewal, revocation, or suspension of the license.

H. Restriction of the use of an Adult Halfway House. Minn. Stat. § 241.021, subd. 1, provides that the Commissioner may, by written order, restrict the use of any Adult Halfway House which does not substantially conform to the minimum standards stated herein, to prohibit the detention of any person therein for more than seventy-two (72) hours at one time.

I. Waiver of specific rule. If in the licensing procedure or enforcement of the standards, the Commissioner finds that:

1. To require a particular Community Correctional Facility to comply strictly with one or more of the provisions will result in undue hardship;

2. The Community Correctional Facility is in substantial compliance with said standards and their general purpose and intent;

3. The Community Correctional Facility complies with such specific condition(s) as the Commissioner may deem necessary for the protection of the health, safety, and welfare of the residents;

then the Commissioner may grant a waiver of specific rule. The granting of a waiver shall not constitute a precedent for any other CCF.

J. Study of application. Following the receipt of the application and materials requested, the Commissioner shall cause a study of the proposed services and facilities of the applicants to be made. This study shall include, but not be limited to, an on-site inspection of the facilities and investigation of references. Following

the study, the representative who conducted the study shall make a recommendation to the Commissioner.

K. Notice to the applicant of Commissioner's action. After the application for license is approved by the Commissioner, the applicant shall receive by mail a license which, as provided by Minn. Stat. § 241.021, shall set forth the conditions under which the CCF may operate. The terms of the license shall include the operating name of the CCF, the maximum number, age range and sex of the residents to be served, and the period of time for which the license is effective, and may include other limitations which the Commissioner may prescribe. An accompanying letter shall contain, in addition to the limitations on the license, any recommendation regarding activities, services, and facilities to be employed. A letter shall accompany a provisional license and state the reason(s) for its being provisional.

L. Appeal procedure. Any applicant who feels aggrieved by the Commissioner's action may appeal the Commissioner's decision in the following manner:

1. The facility administrator shall be given written notice of the action and shall be informed of the right to appeal the decision of the Commissioner in writing within ten (10) days from his or her receipt of notice of the action. Upon receiving a timely written appeal, the Commissioner shall give the facility administrator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner, appointed by the State Board of Hearing Examiners. The hearing examiner shall recommend to the Commissioner whether the license shall be granted, suspended, revoked or denied. The Commissioner shall not be bound by the decision of the hearing examiner. The decision of the Commissioner shall be served on the operator by certified or registered mail.

2. At any hearing, the facility administrator may be represented by counsel and shall have the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and subpoena on behalf of any party. Each decision by the hearing examiner shall be in writing, shall contain findings of fact and conclusion, and shall be mailed to the parties by certified or registered mail. Unless the situation has been found by the Commissioner to be hazardous to the health of residents, a facility may continue to operate, but may not initiate operations, pending a decision of the hearing examiner.

M. When a CCF license has been revoked or not renewed because of non-compliance with applicable laws or rules, it shall not be granted a new license for a period of not less than one (1) or up to five (5) years following the revocation, denial or non-renewal. The specific length of time shall be determined at the discretion of the Commissioner.

N. Failure of the Commissioner to approve or deny an application within thirty (30) days of receipt of a completed application shall be deemed to be an approval of provisional license.

11 MCAR § 2.404 Severability.

If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

11 MCAR § 2.408 Organization and administration of Adult Halfway Houses.

A. The public or private agency operating an established Adult Halfway House shall be a legal entity or part of a legal entity.

1. If an Adult Halfway House is to operate as a non-profit corporation, it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. § 317.65, particularly as it relates to governing boards and annual audits.

2. If an Adult Halfway House is to operate as a private profit making corporation it shall be constituted in accordance with the laws of the State of Minnesota as outlined and prescribed in Minn. Stat. ch. 300.

B. Policy making. The governing board shall have a written policy clearly stating its purposes, the program and services offered. This will be done in a form suitable for distribution to staff, clients, referral sources, funding agencies and the general public.

C. The governing board of the Community Correctional Facility shall hold meetings at least annually with the administrator in order to facilitate communications, establish policy, explore problems, ensure conformity to legal and fiscal requirements, and implement the program.

D. The CCF shall maintain records of its activities, including the minutes of board meetings, financial data and statistical information. All records are subject to review by the Commissioner.

E. The policy manual shall be reviewed annually by the governing board, and updated when necessary.

F. No member of the governing board shall have any direct financial interest arising from agency business or program, which would conflict with the performance of his/her duties as a member of the board.

G. The CCF shall identify, document and publicize its tax status with the Internal Revenue Service.

H. The CCF shall have a constitution or articles of incorporation which meet all of the legal requirements of the governmental jurisdiction in which the agency is located.

I. The program shall be managed by a single administrative officer who shall implement the policies of the board.

J. The CCF shall have a system to monitor the program through inspections and reviews by the administrator or designated staff.

K. The CCF shall have an operations manual which summarizes in one document approved methods of implementing agency policies and provides details for daily operations of the program.

L. Bylaws shall meet all the legal requirements of the governmental jurisdiction in which the CCF is located, and shall include provisions for regular and special meetings, and for recording of minutes.

M. Each facility must substantially comply with all applicable licensing requirements of the jurisdiction in which it is located, including requirements of the department of health and all relevant fire and safety codes.

11 MCAR § 2.412 Fiscal management of Adult Halfway Houses.

A. The facility administrator or designated employee shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the funding authority.

B. The CCF shall have written policies which govern revisions in the budget.

C. The CCF fiscal process shall include a financial audit (preferably certified) of the CCF, at least annually, or at time periods stipulated by applicable statutes.

D. The CCF shall prepare and distribute to its governing board, and affected agencies and individuals, at a minimum the following: income and expenditure statements, funding source, financial reports, and independent audit reports.

E. The CCF shall have a written fiscal system which accounts for all income and expenditures on an ongoing basis and which shall include: internal controls, petty cash, bonding, signature control on checks, resident funds and employee expense reimbursement.

F. The CCF shall use a method which documents and authorizes wage payment to employees and consultants.

G. Insurance coverage. The CCF shall have a procedure to provide insurance coverage for itself, which shall include coverage for the physical plant, equipment, and personal and property injury to employees, residents and third parties.

11 MCAR § 2.416 Personnel.

A. Personnel policies.

1. There shall be written personnel polices for personnel employed by the CCF, which specify salaries, increments, hours of work, work schedule, vacations, holidays, sick leave, periodic performance evaluation (at least annually), and other conditions of employment.

2. Personnel policies shall be available to each employee upon employment. The program shall inform each employee of the duties assigned to him/her, a position and organizational chart indicating the person to whom he/she is directly responsible, and general conditions which constitute grounds for dismissal and suspension, and a grievance procedure. The grievance procedures shall allow the aggrieved party to bring the grievance to at least one level above his/her supervisor.

3. The personnel policies shall be available to the Commissioner.

B. The policies shall include provisions for time off, vacation, sick leave, disability, and other employee benefits.

C. During the absence of regular staff for time off, vacation, and sick leave, arrangements shall be provided to ensure consistent care of the residents.

D. The CCF shall have staff available or on call twenty-four (24) hours a day, and seven (7) days a week.

E. The ratio of staff to licensed capacity shall be: not less than one (1) direct service staff person for every six (6) residents.

F. The CCF shall make provisions for, and allow time for a confidential personnel record to be kept for each staff member which should include date of beginning and end of employment, hours, salary or wages, qualifications, evaluations, resume, references, and training sessions.

G. Training program.

1. The CCF shall provide an orientation session for new employees and new volunteers.

2. The CCF shall provide a minimum of eighteen (18) hours per year of ongoing in-service training programs to help staff and volunteers meet the individual and group needs of residents.

3. The CCF shall provide ongoing cultural awareness training sessions for staff and volunteers working with minority residents.

4. It is mandatory that at least one employee on each shift, who is providing direct service to residents has First Aid Training.

Training shall be provided by a Red Cross instructor or a licensed health professional.

5. First Aid Training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three (3) years.

6. Time shall be available for staff and volunteers to participate in job related training.

7. When residents need special services, staff shall be able to refer them to other resources in the community.

H. Each staff member shall have a mantoux test or chest x-ray annually.

I. Qualifications of staff.

1. For all education requirements, experience in the human services fields may be substituted for education. The CCF shall have a written policy which outlines experience and educational substitutes if the program permits such substitutes.

2. The facility administrator shall have at least a Bachelor of Arts Degree in any of the human services fields (or a substitute as provided in 1 above); and two (2) years of work experience in corrections, social service and/or administration.

3. The staff shall have work or volunteer experience in caring for residents in corrections or related experience and shall be selected on the basis of their ability to manage the program and work with other members of the staff.

4. Persons providing professional services shall have achieved recognition to practice in their respective professions, including but not limited to license, certificaton, or registration required under state laws (psychiatrists, psychologists, social workers, probation and parole officers, etc.).

J. Volunteers with training and supervision may be used to assist staff of the CCF. If volunters are used:

1. The Community Correctional Facility shall establish requirements for the selection of volunteers.

2. The Community Correctional Facility and the individual volunteer shall agree on the latter's job assignment. The volunteer's responsibility shall be clearly differentiated from other staff members.

3. If a volunteer is to be used in a capacity normally filled by a paid staff member he/she must meet the same qualifications as a paid staff member.

4. Responsibility for the volunteer program shall be assigned to a specific staff member.

K. All employees, including volunteers, providing direct service to residents shall be at least eighteen (18) years of age.

11 MCAR § 2.418 Admissions and placement policies.

A. Admissions policies. The CCF shall establish clearly defined and written admissions policies and procedures, which will state the age range, sex and characteristics of acceptable clients. Admission policies shall be available to be disseminated to all referral sources and the Commissioner.

B. Admission form. The CCF and/or agent making the referral shall complete an initial admission information form on each client to be admitted into residency which, unless prohibited by local ordinance, includes at a minimum:

1. Name;
2. Address;
3. Date and place of birth;
4. Sex;
5. Reason for referral;
6. Whom to notify in case of emergency;
7. Date information gathered;
8. Signature of both interviewee and interviewer gathering information;
9. Name of referring agency of committing authority;
10. Special medical problems or needs;
11. Legal status, including jurisdiction, length and conditions of placement;
12. Financial arrangements for medical care;
13. Financial arrangements for care.

C. Medical examination. A CCF shall not keep residents in care unless they have had a medical examination ninety (90) days prior to or thirty (30) days after admission to ascertain the existence of any physical disability or communicable disease.

D. Orientation. At the time of intake, the staff shall discuss program goals, services available, rules governing conduct, program rules, and possible disciplinary actions with the participants; this shall be documented.

E. Progress reports. Each resident's progress shall be continuously reviewed in relation to his/her service plan and a written record of review shall be maintained.

F. Completion of or termination from program. The prospective resident shall be informed at the time of intake what expectations there are for completion of and/or successful termination from the program of the CCF.

11 MCAR § 2.420 Program.

A. Project staff and resident shall develop and agree upon a written treatment plan that specifies:

1. The identified needs of the resident;

2. The expected goals and objectives of the individualized plan to be used;

3. The participation of the resident, staff, support services and community resources in the attainment of these goals and objectives;

4. Counseling shall be offered to help the resident with problems that affect his/her ability to have satisfying personal relationships, to realize the capacity for growth, to help the person cope with the crisis of living in a restrictive environment, and to help persons to return to normal living in the community.

B. The agency shall have written policy and procedures which provide increasing opportunities and privileges for resident involvement with family and in community affairs prior to final release.

C. Involvement in the community.

1. To ensure that resident accessibility to community resources is maximized and existing services are not duplicated the facility director shall develop, and if appropriate, maintain participation or support services consistent with project's mission statement and service delivery plan.

2. The CCF shall use community resources where appropriate to provide residents with the following services, including, but not limited to:

a. Assisting residents in learning to use leisure time constructively;

b. Assisting residents in finding suitable employment;

c. Assisting residents in locating financial assistance through community resources;

d. Assisting residents in education and vocational training programs;

e. Assisting residents with services to become self-sufficient, including, but not limited to, assistance in obtaining housing, transportation, medical, dental services or money management.

D. Work assignments and work program.

1. Required work assignments should be appropriate to residents' ages and ability and residents shall not be required to perform work which is inappropriate for them for physical reasons. Reasonable

criteria for safety measures shall be established when work could be deemed hazardous.

2. Residents shall not be required to perform duties such as: personal duties for staff or replacing employed staff without pay.

3. Staff members shall check and inform residents of applicable minimum wage law, health and safety laws, social security, labor union fees and requirements, etc.

4. Program shall have a written policy with respect to periodic checks of residents at their place of employment.

E. House rules.

1. There shall be clearly defined policies and procedures allowing the resident input into:

a. The development of house rules;

b. The decision making process.

2. The program shall establish a method whereby residents and staff:

a. Review group, resident or community problems;

b. Review old rules, new rules, or changes in rules, plans and procedures in the CCF.

3. There shall be a written grievance procedure made available to each resident which outlines rules of the facility, residents' rights, and order of the grievance procedure.

F. Religion. Each resident has the right to freedom of religious affiliation and voluntary religious worship, providing that the exercise of these rights does not directly interfere with the reasonable security and discipline of the facility.

11 MCAR § 2.424 Nutrition and food.

A. When the CCF provides or contracts for food service, it shall ensure that the service meets or exceeds nutritional standards as recommended by the dietary allowance of the Food and Nutrition Board of the National Research Council.

B. When the CCF provides or contracts for food service, the service shall comply with and meet all sanitation and health codes as promulgated by state or local authorities.

C. A minimum of three (3) meals a day shall be available for residents unless an agreement states otherwise.

11 MCAR § 2.428 Special procedures.

A. Discipline and disciplinary action. Discipline should be considered as training to assist residents in the development of self-control, character, and orderly conduct. Informal resolution of conflicts should be considered prior to taking formal disciplinary action. Should disciplinary action be necessary the following rules shall be observed:

1. The CCF shall have written policies which shall be available to the residents, and to staff regarding methods used for control and discipline.

2. All disciplinary action shall be the responsibility of staff members and shall not be delegated to other residents or persons outside of the program unless special skills are needed to handle the situation.

3. Residents shall not be denied food, mail, or sleep as punishment.

4. Corporal punishment shall not be used.

5. Physical force shall be used only in instances of justifiable self-protection, protection of others, and prevention of property damage, and only to the degree necessary and in accordance with appropriate statutory authority; such action shall be documented and placed on file.

B. Room restriction, facility restriction and privilege suspension.

1. Written policy and procedures shall ensure that room restriction does not exceed eight (8) hours and is used only under the following conditions: the resident is dangerous to himself/herself or others; and/or there is strong evidence to indicate he/she is about to abscond.

2. Written policy and procedures shall ensure that prior to room restriction the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

3. During room restriction staff contact shall be made with the resident at least hourly to ensure the well being of the resident; the resident shall assist in the determination of the end of the restriction period.

4. Written policy and procedures shall ensure that prior to privilege suspension the resident has the reasons for the suspension explained to him/her, and has an opportunity to explain the behavior leading to the suspension.

5. Written policy and procedures shall ensure that prior to facility restriction (grounding) for up to forty-eight (48) hours,

the resident has the reasons for the restriction explained to him/her, and has an opportunity to explain the behavior leading to the restriction.

6. Written policy and procedures shall ensure that prior to facility restriction for more than forty-eight (48) hours there is an administrative hearing by a person or panel of staff who are not directly involved in the incident leading to the restriction.

7. All instances of room restriction, privilege suspension and facility restriction shall be logged, dated and signed by staff implementing the discipline procedure; the log shall be reviewed by supervisory staff at least daily.

8. Where extended confinement is necessary, a detention facility (with which previous arrangements have been made) shall be used.

C. Security procedures. Written policies regarding security measures are necessary and shall include:

1. A written plan shall allow staff to monitor movement into and out of the facility, under circumstances specified in the plan.

2. The staff shall maintain a system of accounting for the whereabouts of its residents at all times.

3. The CCF shall have written procedures for the detection and reporting of absconders.

4. The CCF shall notify appropriate probation officers, parole officers and/or other relevant officials as soon as it has been determined that a resident has run away or is missing.

5. Any general security restrictions must allow for individual protection, as well as protection for others, and must be part of the written program policy.

6. Written policy and procedures prohibit weapons of any kind from being brought into or kept on the program grounds.

7. A key inventory system shall be enforced that helps provide staff and resident safety and privacy needs, and assists in protecting and preserving personal property.

D. Personal possessions.

1. Each resident shall be allowed to bring appropriate personal possessions to the CCF and shall be allowed to acquire possessions of his/her own to the extent the facility is able to accommodate secure storage of them.

2. The CCF shall have written definitions of what will be considered contraband.

3. Information shall be made available to the residents, family members and friends concerning what personal possessions and kinds of gifts are prohibited.

E. Relative to public reports, statements, or appearances.

1. Residents shall not be required to make public statements acknowledging their gratitude to the program and shall not be required to perform or appear at public gatherings.

2. The CCF shall not use reports or pictures from which residents can be identified without written consent from the resident.

a. The signed consent form shall be on file at the CCF before any reports or pictures from which residents can be identified are used.

b. The signed consent form shall indicate on how many occasions the information shall be used.

F. Searches. In compliance with applicable laws, the CCF shall maintain and make public, written policies and procedures for conducting searches of residents, their belongings, and all areas of the facility to control contraband and locate missing or stolen property.

11 MCAR § 2.432 Physical facility.

A. The facility shall comply with all applicable codes, ordinances and licensing regulations of the state and/or local jurisdiction in which the facility is located. These shall include, but not be limited to: zoning codes; building codes; housing codes; health and fire codes.

1. It is the responsibility of the facility administrator to request necessary inspections and to comply with any resulting recommendations noted in the inspection reports.

2. Written documentation that all building and zoning codes, fire, health and safety rules are met shall be on file at the CCF and/or conspicuously posted in the facility.

B. Written policy and procedures shall specify the facility's fire prevention regulations and practices to ensure the safety of staff, residents and visitors. These shall include, but not be limited to:

1. Provision for an adequate fire protection service;

2. A system of fire inspection and testing of equipment determined by the local fire official;

3. Smoke detectors;

4. Fire drills and extinguishers.

C. There shall be written plans and procedures for meeting potential disasters and emergencies, such as fire, severe weather or other emergencies. All staff shall be familiar with the procedures for meeting potential disaster.

D. Building. Building and grounds shall be maintained, repaired and cleaned so that they are not hazardous to the health and safety of residents and staff.

1. New or renovated buildings. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be suitably aligned with the purpose of the Adult Halfway House and shall be submitted to the following authorities for approval:

a. Office of the State Fire Marshal;

b. Local zoning and/or building departments;

c. Local health department;

d. The Commissioner.

2. Heating equipment shall be in good condition, vented, and shall be capable of maintaining consistent uniform temperatures as well as eliminating drafts. A comfortable temperature range shall be maintained in all rooms occupied by residents.

3. Bedrooms.

a. Single bedrooms shall provide at least seventy (70) square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are one hundred (100) square feet of useable floor area with a side dimension of not less than nine (9) feet.

b. Multi-bed bedrooms shall provide at least sixty (60) square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one (1) foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bed bedrooms shall provide at least eighty (80) square feet of useable floor area. Multi-bed bedrooms for active, non-ambulatory, mobile residents shall be at least one hundred (100) square feet per resident. Mobility space at the end and one side of each bed shall be not less than four (4) feet.

c. Bedrooms for non-ambulatory mobile residents shall have adequate accessible space for storage of wheel chairs and other prosthetic or adaptive equipment for daily out of bed activitiy or acceptable similar storage space shall be provided outside the bedroom readily and handily accessible to the resident.

d. In new or remodeled buildings, bedrooms shall accommodate no more than four (4) residents.

4. Each resident shall be provided, at a minimum: bed; mattress; supply of bed linen and towels; chair; adequate lighting; and closet/locker space.

5. Separate bedrooms.

a. Male and female residents shall not occupy the same bedrooms.

b. Youths and adults shall not share bedrooms except in approved circumstances by the facility administrator.

6. Counseling space and visiting room.

a. Private counseling space shall be provided in the facility.

b. Space shall be provided to accommodate group meetings.

c. A visiting area shall be provided where residents may receive and talk with visitors privately.

7. Every facility shall be equipped with adequate and conveniently located toilet rooms for its employees and residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet to every ten (10) residents and at least one (1) washbasin for every six (6) residents. At least one (1) bath or shower shall be available for every eight (8) residents.

8. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every twenty (20) residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

E. Transportation.

1. Written policy and procedures shall govern the use and maintenance of facility and resident motor vehicles.

2. Transportation shall be available for use in emergencies.

F. Environment. The governing body shall designate who is permitted to live in the facility.

1. A CCF shall not have roomers or boarders in the facility without special permission from the facility administrator.

2. The CCF shall keep the Commissioner notified as to the presence of all persons living in a CCF other than staff and residents.

3. Staff may live in the CCF as appropriate and with approval of the facility administrator.

4. An Adult Halfway House shall not concurrently hold a license for family day care, or group day care without prior approval by the Commissioner.

11 MCAR § 2.436 Health care and medical services.

A. The facility administrator shall ensure written policies and procedures for use by staff in all medical, dental, and psychological difficulties.

B. Medical coverage shall be arranged for each resident upon admission to the program.

C. Written policies and procedures shall clarify for the staff what medical care may be given by them without specific orders from a licensed medical doctor. The staff shall be instructed as to how to obtain further medical care and how to handle emergency cases.

D. The program health care plan shall adhere to State and Federal laws and rules regarding distribution of medications. The plan shall stipulate that medications be administered only as instructed by a licensed physician.

E. The facility administrator shall establish policies and procedures for reviewing the use, as well as the storage and disbursement of prescription drugs.

F. Written policy shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes.

G. One staff member on each shift of the residential program shall be trained in emergency first aid procedures.

H. The CCF shall maintain working relations with community health care agencies in order to assist residents in meeting their health needs.

I. The CCF shall have first aid equipment, which meets American Red Cross standards available at all times for medical emergencies.

11 MCAR § 2.440 Records and evaluation.

A. Residents.

1. The CCF shall maintain accurate and complete case records, reports and statistics necessary for the conduct of its program. Appropriate safeguards shall be established to protect the confidentiality of the records, and minimize the possibility of theft, loss or destruction.

2. Form and content of case records.

a. In addition to the data required in the intake study, the resident's record shall include consent for necessary dental, medical and surgical treatment, and hospitalization.

b. The CCF shall keep records or have access to ongoing medical information, when available, which shall include:

(1) Dental examinations;

(2) Reports of any illness or injury and treatment given;

(3) Psychological examinations and treatment given, if any;

(4) Use of drugs;

(5) Routine physical examinations and other medical contacts.

c. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

(1) Reports of significant incidents, both positive and negative, and changes in family situation;

(2) Future planning;

(3) Summary of resident's development;

(4) Grievance and disciplinary actions, if any.

d. All correspondence relevant to the resident shall be kept in the record.

e. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

(1) Name;

(2) Date and place of birth;

(3) Sex;

(4) Religion;

(5) Race;

(6) Names and addresses of person(s) to be contacted in event of emergency;

(7) Date of admission;

(8) Insurance policy numbers, medical number (if any);

(9) Name of probation officer, parole officer, or welfare worker;

(10) Date of termination;

(11) Special medical problems or needs;

(12) Financial arrangements for medical care;

(13) Legal status, including jurisdiction, length and conditions of placement;

(14) Financial arrangements for care.

3. The content of the resident's record and data collected by the CCF shall be shared with individuals or agencies directly involved in the resident's treatment plan. When such information is provided, residents shall be informed. All dissemination of residents' records and information shall be subject to Minn. Stat. § 15.162, subds. 3., 5., and 5.a.

4. Except in situations covered by aforementioned part 3, the CCF shall provide that a Release of Information Consent Form shall be signed by the resident immediately before each release of information concerning the resident is completed, and a copy of the consent form shall be maintained in the resident's record.

5. The CCF shall have a written policy which conforms at a minimum to applicable federal law, that relates to the Release of Information Consent Form, which includes:

a. Name of person, agency or organization requesting information;

b. Name of person, agency or organization releasing information;

c. The specific information to be disclosed;

d. The purpose or need for the information;

e. Date consent form is signed;

f. Signature of the resident;

g. Signature of an individual witnessing resident signature.

6. The CCF shall have a written policy which specifies the length of time a case record must be maintained.

7. Residents shall have access to their files upon request at a time convenient to staff.

B. Personnel records.

1. The CCF shall maintain an accurate personnel record on each employeee which shall include, at minimum:

a. Initial application;

b. Reference letters;

c. Appropriate results of employment investigation;

d. Training and experience verification;

e. Wage and salary information;

f. Job performance evaluation completed at least annually;

g. Training programs which the employee participated in after employment began;

h. Documentation of sick leave, leave of absence and vacation;

i. Grievance and disciplinary actions, if any;

j. Health and medical reports;

k. Dates of employment and termination with reason for termination.

2. Employees shall have access to their personnel files.

C. Facility records. The board shall maintain records of its activities, including the minutes of board meetings, financial data and statistical information.

D. Evaluation.

1. The CCF shall have an organized system of information collection, retrieval and review to document their program.

2. Written policy and procedures shall govern voluntary participation in non-medical and non-pharmaceutical research programs.

Chapter 2: Group Foster Homes

11 MCAR § 2.444 Introduction.

A. Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other state regulating agencies. The rules which follow are intended to fulfill that requirement for all correctional Group Foster Homes.

B. The Commissioner of Corrections, has, pursuant to Laws of 1978, ch. 778, Sec. 6, appointed a citizens' advisory task force to assist in the development of rules contained herein.

C. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of Group Foster Homes.

D. Compliance with the requirements stated herein is the responsibility of the Group Foster Parents.

11 MCAR § 2.445 Definitions. Definitions for the purpose of these rules are as follows:

A. "Youth" are persons who are under eighteen (18) years of age.

B. "Department of Corrections", "Department", or "DOC" shall mean Minnesota State Department of Corrections.

C. "Commissioner" shall mean Commissioner of the Minnesota State Department of Corrections or his designee.

D. "Applicant" shall mean any person(s), agency or organization applying for a license or renewal of license under this rule.

E. "License" shall mean a certificate issued by the Commissioner authorizing the operator to provide specified services for a period of a year in accordance with the terms of the license, Minn. Stat. § 241.021, and the rules of the Commissioner.

1. "Provisional license" is: 1) a certificate that will be issued for a maximum six (6) month period prior to granting a license; and 2) may be issued for another six (6) month period if the applicant is temporarily unable to substantially comply with the requirements of these rules.

2. "Renewal license" is a license issued for a period subsequent to the period for which the license was issued and where there has been no intervening period during which a license has been revoked.

3. "Revocation of license" means that the operator of a facility shall no longer be authorized to provide services.

4. "Suspension of license" means that the operator is not authorized to provide services for a specified period of time, or until the facility is found to be in substantial compliance with licensing requirements.

F. "Waiver" means a written permission from the Commissioner to disregard a particular section of a licensing rule.

G. "Group Homes", "Group Foster Homes" or "GFH" shall mean a residential facility where not more than eight (8) delinquent youths are cared for by Group Foster Parents on a twenty-four (24) hour a day basis.

H. "Sponsoring agency" is the body which formulates the policies and procedures governing a Group Foster Home. The bodies include but are not limited to: Community Corrections Board, County Court Services, State of Minnesota Department of Corrections, Community Corrections Departments, and non-profit corporations.

I. "Governing Board" (only applies in the case of privately operated Group Foster Home programs) is the body which formulates the policies and procedures governing a Group Foster Home, this body being composed of, at a minimum, the offices of president, secretary, treasurer and the administrator of the program, a local representative from the community, and additional membership according to the size and function of the individual program.

J. "Coordinator" is an individual who coordinates the operations of all of the Group Foster Homes within a single county.

K. "Group Foster Parents" means the person(s) who carry(ies) out the continuing daily living program in a Group Foster Home and provide(s) care to the youths. The Group Foster Parents may be a married couple or a single adult who is twenty-one (21) years of age or older.

L. "Resident" is a youth participating in a Group Foster Home program.

M. "Program" is a plan, procedure or activity for dealing with youth in a Group Foster Home.

N. "Service plan" is a design for helping the youth reach the goal of placement.

O. "Supervising agent" is the probation officer or parole agent working with an individual youth or with a set of youths living in a single Group Foster Home, or the equivalent of a Supervising Agent in privately operated homes.

P. "Significant others" are persons who are important in the life of the resident.

Q. "Leave of absence" is a period of up to twelve (12) months during which a set of Group Foster Parents do not provide foster care for any youths.

R. "Contraband" are those items designated by the GFH as unauthorized or unapproved on the physical premises of the facility.

11 MCAR § 2.446 Procedures for licensing.

A. Legal basis. The Minnesota State Department of Corrections (the Commissioner) is authorized to establish procedures for licensing Group Foster Homes which are maintained and operated in conformity with the rules and standards authorized by Minn. Stat. § 241.021, (1978).

B. All Group Foster Homes will be inspected pursuant to Minn. Stat. § 241.021, and all such inspections shall be according to the standards set forth herein.

C. Original application for license.

1. New applicants shall file application with the Commissioner of Corrections thirty (30) days prior to the date the facility expects to operate. The Commissioner shall determine the suitability of such applicants by the following rules in this and subsequent sections.

2. Materials to be filed with Group Foster Home license application:

a. A completed application for license on the form issued by the Commissioner;

b. At least three (3) letters of reference for the Group Foster Parent(s) and for any employee involved in child care. References must not be from Department employees nor relatives of the persons referred.

c. An outline of the Group Foster Home's program (ex: philosophy, purpose and function of the program). If a single governing body or sponsoring agency operates more than one (1) Group Foster Home, the manual of the governing body or sponsoring agency will suffice;

d. The intake policy and procedures (including sex, age and interview policies);

e. Evidence that sometime during the twelve months prior to initial licensure, and annually thereafter, each person living in or working in the home has had a mantoux test or chest x-ray;

f. A floor plan of the Group Foster Home with designated room dimensions;

g. A list of other facilities which the operator has operated or is currently operating (either in or out-of-state).

h. Evidence of approval by fire, safety and health departments.

3. As part of the application, the Group Foster Parents shall assist the Sponsoring agency in making a preliminary home study. This study shall include an inspection of the facility and an investigation into the family's background and references. The Sponsoring agency shall then make a recommendation to the Commissioner as to whether a license shall be granted or denied.

D. Renewal license.

1. Application for relicensure shall be submitted to the Commissioner at least thirty (30) days prior to the expiration date (or date of recontinuance of a GFH after a leave of absence). Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Group Foster Home, qualifications of the Group Foster Parents, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of renewal license application.

2. Materials to be filed with Group Foster Home license renewal application:

a. Evidence that sometime during the twelve (12) months prior, each Group Foster Parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray;

b. A record of major changes in the program or facility during the year or contemplated for the coming year;

c. Building plans for any contemplated construction giving room dimensions and specifications and use.

d. Evidence of approval by fire, safety and health departments.

E. Provisional license.

1. A provisional license will be 1) issued for a maximum six (6) month period prior to issuance of a license; and 2) may be issued for another maximum six (6) month period if the facility is not yet in substantial compliance with these rules, and if evidence of progress is demonstrated. Applications for renewed provisional licenses shall be filed thirty (30) days prior to expiration date. The provisional licenses shall not be renewed so as to exceed one (1) year.

2. Replacements of any of the materials required in the previous license application shall be submitted when the materials document changes in the operation of the Group Foster Home, qualifica-

tions of the Group Foster Parents, or in the physical facility. Any materials submitted in a previous license application which are not replaced by new submissions will be presumed to be currently correct at the time of the renewal or change of license application. The following materials are to be submitted with renewal or change of provisional license application:

a. A statement showing which initial requirements listed as conditions of the provisional license have been met; and/or

b. A statement of the plan for meeting the intital requirements listed as conditions of the provisional license which have not been met; and

c. Evidence that sometime during the twelve (12) months prior each Group Foster Parent and each member of their family and additional staff living in or working in the home has had a mantoux test or chest x-ray.

3. If, at the time of the six (6) month provisional period, the facility is in substantial compliance with these rules a full license will be issued.

F. Conditions of license.

1. A license shall apply only to the organization or person(s) to whom it is issued and to the buildings approved. The license shall expire automatically if there is a change in location, organization, procedure and policies, or a structural modification or addition to the physical facility, which would affect either the terms of the license or the continuing eligibility for a license. In such cases, an application for a transfer of license must be filed. To avoid delay, the Commissioner shall be advised at once of any change so that he/she may determine if the change may be approved and the license modified accordingly. An application for a transfer of license shall include:

a. An outline of any proposed changes in the Group Foster Home's program (ex: philosophy, purpose and function of the program);

b. Any changes in the intake policy;

c. A new floor plan of the Group Foster Home with designated room dimensions.

2. Before any structural modifications or additions to the physical facility are made, the plans shall be approved by the Commissioner.

3. Every license shall be restricted to a specified maximum capacity. No regular GFH shall be licensed with a maximum capacity so high as to allow more than ten (10) youths (including both foster youths and the youths in the Group Foster Parents' natural family) to live in the GFH.

4. There is no fee for a state license.

5. No persons shall be placed in a Group Foster Home prior to its being licensed.

G. Jurisdictional licensing requirements. Each GFH must substantially comply with all applicable licensing requirements of the jurisdiction in which it is located, including requirements of the local board of health and all relevant fire and safety codes.

1. It is the responsibility of the Group Foster Parents to request the necessary inspections and to comply with any resulting recommendations noted in the inspection reports.

2. Written documentation that all fire, health and safety rules are met shall be on file with the Commissioner. In those jurisdictions where a Fire Marshal report is not required, the applicants shall complete and submit a Fire Safety Checklist supplied by the Commissioner.

3. All Group Foster Parents shall be familiar with the plans and procedures such as fire, severe weather or other emergencies.

H. Waiver of specific regulation. If in the licensing procedure or enforcement of the standards, the Commissioner finds:

1. That to require a particular Group Foster Home to comply strictly with one or more of the provisions will result in undue hardship; and

2. The Group Foster Home is in substantial compliance with said standards and their general purpose and intent; and

3. The Group Foster Home complies with such specific condition(s) as the Commissioner may deem necessary for the protection of the health, safety, and welfare of the residents;

the Commissioner may grant a waiver of specific rules. The granting of a waiver shall not constitute a precedent for any other Group Foster Home.

I. Study of the application. Following the receipt of the application and materials requested, the Commissioner shall cause a study of the proposed services and facilities of the applicants to be made. This study shall include an on-site inspection of the facilities and an investigation of references. Following the study, the representative of the Commissioner who conducted the study shall make a recommendation to the Commissioner.

J. Notice to the applicant of Commissioner's action. After the application for license is approved by the Commissioner, the applicant shall receive by mail a license which, as provided by Minn. Stat. § 241.021, shall set forth the conditions under which the GFH may operate. The terms of the license shall include the operating

name of the GFH, the maximum number, sex and age range of the residents to be served, and the period of time for which the license is effective, and may include other limitations which the Commissioner may prescribe. An acompanying letter shall contain in addition to the license, any recommendation regarding activities, services, and facilities to be employed. A letter shall accompany a provisional license and shall state the reason(s) for its being provisional.

K. Provision, revocation, suspension and denial of license. A provisional license may be granted if the facility does not substantially comply with licensing requirements. The facility will be given a specified period of time in which to do so, pending revocation or suspension of license if the requirements are not met. A license may be revoked and suspended by the Commissoner if the facility does not maintain compliance with the minimum standards; or if an applicant has violated any federal or state law; or if the applicant has a poor operating history in this state or any other state.

L. Restriction of the use of a GFH. Minn. Stat. § 241.021, subd. 1 (1978), provides that the Commissioner may, by written order, restrict the use of any Group Foster Home which does not substantially conform to these minimum standards stated herein to prohibit the detention of any person therein for more than seventy-two (72) hours at one time.

M. Appeal procedure for denial, suspension and revocation of license. Any applicant who feels aggrieved by the Commissioner's action, may appeal the Commissioner's decision in the following manner:

1. The operator shall be given written notice of action and shall be informed of the right to appeal the decision of the Commissioner. The operator must appeal the decision in writing to the Commissioner within ten (10) days from the operator's receipt of the notice of action. Upon receiving a timely written appeal, the Commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner appointed by the State Board of Hearing Examiners. The hearing examiner shall recommend to the Commissioner as to whether the license shall be granted, denied, suspended, or revoked. The Commissioner shall not be bound by the decision of the hearing examiner. The decision of the Commissioner shall be served on the operator by certified or registered mail.

2. At any hearing, the operator may be represented by counsel and shall have the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on behalf of any party. Each decision by the hearing examiner shall be in writing, shall contain findings of fact and conclusion, and shall be mailed to the parties by certified or registered mail. Unless the situation has been found by the Commissioner to be hazardous to the health of residents, a fa-

cility may continue to operate, but may not initiate operations, pending a decision of the hearing examiner.

N. When a GFH license has been revoked or not renewed because of non-compliance with applicable laws, it shall not be granted a new license for a period of not less than one year and up to five years, at the discretion of the Commissioner.

O. Failure of the Commissioner to approve or deny an application within thirty (30) days of receipt of a completed application shall be deemed to be an approval of provisional license.

11 MCAR §2.450 Severability.

If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

11 MCAR § 2.456 Group Foster Parent qualifications.

A. Group Foster Parents shall be mature and responsible, and have the ability to deal openly with the emotions and problems of youth. The Group Foster Parents must also command the respect of youths and be able to firmly discipline them in a constructive way. The Group Foster Parents must also be willing to cooperate with the Commissioner, the Supervising agent, the Court and all other agencies that are involved in the youths' welfare.

1. A GFH license shall not be issued or renewed where any person (except foster youth) living in the household has any of the following characteristics:

a. A conviction for, or admission of, or substantial evidence of an act of child battering, or child abuse, or child molesting, or child neglect, or incest within the previous five (5) years, and at the discretion of the Commissioner within ten (10) years. Reasonable methods of discipline shall not constitute child battering, child abuse, child molesting, child neglect or incest.

b. Chemical dependency, unless the individual is identified as chemically free for at least twenty-four (24) consecutive months.

c. Residence of the family's own children in foster care, correctional facility, or residential treatment for emotional disturbance within the previous twelve (12) months if, in the judgment of the Sponsoring Agency, the functioning of the family has been impaired.

d. Felony conviction within the previous three (3) years, or release from incarceration for a felony conviction within the previous three (3) years.

e. Misdemeanor conviction within the previous twelve (12) months, or release from incarceration for a misdemeanor conviction within the previous twelve (12) months.

B. All Group Foster Parents shall be at least twenty-one (21) years of age at the time of licensure.

C. Physical handicap of Group Foster Parents shall be a consideration only as it affects their ability to provide adequate care to foster youths or may affect an individual youth's adjustment to the family.

D. When all adults in the GFH are employed or otherwise occupied for substantial amounts of time away from home, the plans for care and supervision of the foster youths shall be approved in advance by the Commissioner. At least one Group Foster Parent shall be available at all times in case of emergency.

11 MCAR § 2.460 Health of persons living in the Group Foster Homes.

A. Evidence that sometime during the twelve (12) months prior to initial licensure, and annually thereafter, each person living in the home has had a mantoux test or chest x-ray.

B. When in the judgment of the licensing authority, any person in the home who exhibits a health problem, an evaluation may be requested of the person as a requirement for licensing.

11 MCAR § 2.464 Training for Group Foster Parents.

A. Every set of Group Foster Parents shall participate in a minimum of eighteen (18) hours annually of training related to foster care. The eighteen (18) hours may be shared between the Group Foster Parents in the home. When the Group Foster Parents have not completed the required annual training at the time of relicensure, no further placements may be made in that GFH until the Group Foster Parents have complied with the training requirements.

1. The following areas of training are recommended, but are not limited to:

a. Child and adolescent development;

b. Communicaton skills;

c. Roles and relationships in foster care;

d. Methods of discipline;

e. Constructive problem solving;

f. The meaning of a foster youth's natural parents;

g. Home safety;

h. Human sexuality.

2. First Aid Training.

a. First aid training is mandatory for all Group Foster Parents. Training shall be provided by a Red Cross instructor or a licensed health professional.

b. First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three (3) years.

B. Group Foster Parents who wish to take a leave of absence from foster care for up to twelve (12) months, may have all or part of the requirements waived in proportion to the length of the leave of absence. If the leave of absence exceeds twelve (12) months, the parents shall reapply for a new license.

C. The Group Foster Parents shall make suitable arrangements for the care of foster youths for any periods of vacation or emergency; and the Supervising agent or Coordinator shall approve the arrangements. Substitute Group Foster Parents shall have the same qualifications as the regular Group Foster Parents (see Group Foster Parent Qualifications § 2.456), and shall have access to Group Foster Parents' training opportunities (see Training and Group Foster Parents § 2.464).

11 MCAR § 2.470 Program.

A. Orientation. At the time of intake, Group Foster Parents shall discuss program goals, service(s) available, rules governing conduct, program rules, and possible disciplinary actions with the residents; this shall be documented.

B. Service plan. A service plan shall be developed and shall be implemented based on the special needs of each resident.

C. The Group Foster Parents shall continuously review each resident's progress in relation to his/her service plan, and a record of the review shall be maintained.

D. The GFH's plan shall make some provisions for the following considerations:

1. Contact with resident's family and significant others;

2. Visitation policies;

3. Involvement in the community.

11 MCAR § 2.474 Special procedures.

A. House rules.

1. There may be regular group meetings to help:

a. Review with common problems of the group, or the group's problem with a resident, or a community problem;

b. Develop positive approaches to community participation;

c. Consider formulation of rules, plans and procedures in the GFH.

2. The Group Foster Parents shall be responsible for ensuring that a copy of the written grievance procedure written by the governing body of the Sponsoring Agency shall be available to each resident. The procedure shall outline rules of the facility, residents' rights and the actual grievance procedure.

B. Written emergency (fire, medical, accident, etc.) plans shall be conspicuously posted in the facility.

C. Discipline should be considered as training to assist residents in the development of self-control, character and orderly conduct. Informal resolution of conflicts should be considered prior to taking formal disciplinary action.

1. Residents shall not be subjected to denial of food, medication, mail or sleep as punishment.

2. Physical force shall be used only in instances of justifiable self-protection, prevention of property damage and protection of others, and only to the degree necessary and in accordance with appropriate statutory authority; such action shall be documented and placed on file in the Group Foster Home.

3. Violation of statutory authority with respect to physical abuse shall be grounds for restriction of the GFH's license.

D. Security procedures. Group Foster Parents shall be accountable for the whereabouts and conduct of residents who have been referred by a court or the Department of Corrections.

1. Group Foster Parents shall monitor movement into and out of the GFH and account for the whereabouts of its residents outside of the GFH.

2. The Group Foster Parents shall notify appropriate probation officers, parole officers and/or relevant officials as soon as it has been determined that a resident is missing or has run away.

3. Any weapons in the GFH shall be securely stored and shall be the responsibility of the Group Foster Parents.

E. Personal communication. To encourage residents to maintain or develop close relationships with members of their family, friends, relatives, communication channels shall be as open as is possible.

1. Mail policy. Residents' mail, both incoming and outgoing shall not be intercepted except where there is reasonable ground to justify such action. If mail is to be read, such action shall be documented.

2. Use of telephone. Written policy shall provide that residents have access to a telephone to make and receive private calls, and shall state any rules that prohibit access.

F. Personal possessions.

1. Each resident shall be allowed to bring appropriate personal possessions to the GFH and shall be allowed to acquire possessions of his/her own to the extent the GFH is able to accommodate secure storage of them.

2. Group Foster Parents may inspect residents' possessions for contraband if there are reasonable grounds to believe that contraband is present.

G. Relative to public reports, statements or appearances.

1. Residents shall not be required to make public statements acknowledging their gratitude to the program and shall not be required to perform or appear at public gatherings.

2. The Group Foster Parents, Supervising Agent or Coordinator shall not use reports or pictures from which a resident can be identified without written consent from the resident and his/her parents or legal guardians.

a. The signed consent forms shall be on file before any reports or pictures from which residents can be identified are used.

b. The resident shall be informed that he/she has the right to withdraw his/her consent at any time.

11 MCAR § 2.478 Physical facility.

A. Building.

1. Location. In metro areas, the GFH shall be located so that it is accessible to schools, transportation, hospitals, clinics, mental health resources, churches, libraries, and recreational-cultural facilities. In rural areas, a transportation plan to provide accessibility is sufficient.

2. Bedrooms.

a. Single bedrooms shall provide at least seventy (70) square feet of useable floor space with a side dimension of not less than seven (7) feet for ambulatory residents. For non-ambulatory residents, the requirements are one hundred (100) square feet of useable floor area with a side dimension of not less than nine (9) feet.

b. Multi-bedrooms shall provide at least sixty (60) square feet per person of useable floor space with at least three (3) feet between beds placed side by side, and at least one foot between beds placed end to end for ambulatory residents. For non-ambulatory/non-mobile residents, the multi-bedrooms shall provide at least eighty (80) square feet of useable floor area. Multi-bedrooms for active, non-ambulatory, mobile residents shall be at least one hundred (100) square feet per resident. Mobility space at the end and one side of each bed shall be not less than than four (4) feet.

c. Bedrooms for non-ambulatory mobile residents shall have adequate accessible space for storage of wheel chairs and other prosthetic or adaptive equipment for daily out of bed activity or acceptable similar storage spaces shall be provided outside the bedroom readily and handily accessible to the resident.

d. In new or remodeled buildings, bedrooms shall accommodate no more than four (4) residents.

3. Each resident shall be provided, at a minimum, with bed; mattress; supply of bed linen and towels; chair; adequate lighting; and closet/locker space.

4. Separate bedrooms.

a. Male and female residents shall not occupy the same bedrooms.

b. Youth and adults shall not share bedrooms except in circumstances approved by the Supervising Agent.

5. Counseling space and visiting room.

a. Space shall be provided to accommodate group meetings.

b. A visiting area shall be provided where resident may receive and talk with visitors privately.

6. Bathroom facilities.

a. Every facility shall be equipped with adequate and conveniently located toilet rooms for its residents. Washbasins and toilets shall be provided in the ratio of at least one (1) toilet and at least one (1) washbasin for every eight (8) residents.

b. At least one bath or shower shall be available for every eight (8) residents.

7. Laundry facility. The facility shall have one (1) washer and one (1) dryer for every sixteen (16) residents, or equivalent laundry capacity available in the immediate vicinity of the facility.

8. Dining room. The dining area shall comfortably accommodate, at one time, all of the foster youths plus the natural family living in the GFH.

B. Environment.

1. A GFH shall not concurrently hold a license for family day care, or group day care without prior approval by the Commissioner.

2. All persons living in the GFH shall first be approved by the Coordinator or the Sponsoring Agency.

3. The Group Foster Parents shall not admit nor dismiss any youth without the authority of the Commissioner, the Juvenile Court, or the youth's Supervising agent.

4. The Commissioner and any Supervising agent shall have access to the GFH for evaluation at any time during normal working hours and at other times by mutual agreement. For the purpose of investigating complaints concerning the health and safety of the youths, the Commissioner and any Supervising agent shall have access to the GFH at any time during the twenty-four (24) hour day.

11 MCAR § 2.482 Health care and medical services.

A. Group Foster Parents shall be responsible for implementing the arrangements for medical and dental coverage for each resident.

B. If a resident is suspected of having a communicable disease, the Group Foster Parents shall see that he/she is given a physical examination by a qualified physician and any necessary treatment.

C. Medications shall be administered only as instructed by a licensed physician.

D. All medical records shall be maintained including office visits, medications given, dosage, time period and the signature of the person administering the medication. (See Records, § 2.490.)

E. The GFH shall have first aid equipment, which meets American Red Cross standards available at all times for medical emergencies.

11 MCAR § 2.486 Nutrition and food.

A. When the Group Foster Parents provide food, they shall ensure that the food meets or exceeds nutritional standards as recommended by the dietary allowance of the Food and Nutrition Board of the National Research Council.

B. A minimum of three (3) meals a day shall be available for residents unless contract states otherwise. The Group Foster Parents shall ensure that the youths receive adequate meals during the day while they are in community activities. This shall include participation in a school lunch program.

11 MCAR § 2.490 Records.

A. Residents' records maintained by Group Foster Home.

1. A record shall be kept of ongoing medical information (when available), including:

a. Immunization;

b. Dental examination;

c. Reports of any illness or injury and treatment given;

d. Psychological examinations and treatment;

e. Use of drugs;

f. Routine physical examinations and other medical contacts;

g. Consent for necessary dental, medical and surgical treatment, and hospitalization.

2. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

a. Reports of significant incidents, both positive and negative, and changes in the family situation;

b. Plans which involve the resident;

c. Grievance and disciplinary actions.

3. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

a. Name;

b. Date and place of birth;

c. Sex;

d. Religion;

e. Race;

f. Name of person(s) to contact in emergencies;

g. Guardianship and custody;

h. Date of admission;

i. Insurance policy numbers, medical number, if any;

j. Name of probation officer, parole officer, or welfare worker;

k. Date of termination;

l. Special medical problems or needs;

m. Financial arrangements for medical care;

n. Legal status, including jurisdiction, length and conditions of placement;

o. Financial arrangements for care.

4. Group Foster Parents shall refer any individuals or agencies requesting resident data to the Supervising Agent of the youth.

5. Unless applicable law provides otherwise, all case records must be turned over to the Supervising Agent after discharge of the resident.

B. Personnel. Group Foster Parents shall have access to their personnel files which are maintained by the Supervising Agent or Coordinator.

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINIMUM STANDARDS GOVERNING ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155, Room 116A, on July 19, 1979, 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 representatives of associates 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.

Commissioner of Corrections

Date: May 31, 1979

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

NON-SECURE CORRECTIONAL RESIDENTIAL)
FACILITIES FOR ADULTS AND JUVENILES)

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

Notice is hereby given, pursuant to the provisions of Minnesota Statutes 15.042, Subdivision 6, (1978), that the Minnesota Department of Corrections is considering proposed new rules for the operation and management for non-secure correctional facilities for adults and juveniles, such as correctional group homes, halfway houses, etc. The Department of Corrections is seeking information and comments from all interested persons or groups concerning the project matter of the proposed rules.

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

John Stewart
Minnesota Department of Corrections
Suite 430, Metro Square Building
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-0142, and in person at the above address.

All statements of information and comments must be received by June 30, 1979. Any materials submitted shall be reviewed and considered by the Department of Corrections during the preparation of the proposed rules. Any written material received by the agency shall become a part of the hearing record in the event rules governing this subject are promulgated.

Orville Pung
Executive Assistant Commissioner

4-13 79.
Date

Department of Corrections

Proposed Rules Establishing Minimum Standards for Adult Halfway Houses and Group Foster Homes

RECEIVED
JUN 25 1979
OFFICE OF HEARING EXAMINERS

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above entitled matter in room 116A of the State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155 on July 19, 1979, commencing at 9:00 A.M. and continuing until all interested or affected persons have had an opportunity to participate.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules, captioned above, by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to Peter Erickson, Examiner at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 612/296-8118. It is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered with and become a part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

Written material may be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner.

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

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

Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, to be effective September 1, 1979, provides that the Commissioner of Corrections shall promulgate rules establishing minimum standards for all correctional facilities throughout the State whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all correctional group foster homes and correctional adult halfway houses. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of group foster homes, and adult halfway

houses.

The proposed rule 11 MCAR § 2.401 is divided into two chapters: Adult Halfway Houses and Group Foster Homes.

Chapter 1. Adult Halfway Houses:

The rules listed below would establish standards for the licensing, the administration and the delivery of the following services.

Rule 402 -- Definitions

Rule 403 -- Procedures for licensing

Rule 404 -- Organization and administration of Adult Halfway Houses

Rule 408 -- Execution of policy--the facility administrator

Rule 412 -- Fiscal management

Rule 416 -- Personnel

Rule 418 -- Admission and placement policies

Rule 420 -- Program

Rule 424 -- Nutrition and food

Rule 428 -- Special procedures

Rule 432 -- Physical facility

Rule 436 -- Health services

Rule 440 -- Records and evaluation

Chapter 2. Group Foster Homes:

The rules listed below would establish standards for the licensing, the administration and the delivery of the following services:

Rule 445 -- Definitions

Rule 446 -- Procedures for licensing

Rule 456 -- Group Foster Parent qualifications

Rule 460 -- Health of persons living in the Group Foster Homes

Rule 464 -- Training for Group Foster Parents

Rule 470 -- Program

Rule 474 -- Special procedures

Rule 478 -- Physical facility

Rule 482 -- Health care and medical services

Rule 486 -- Nutrition and food

Rule 490 -- Records

One free copy of the proposed rule will be available upon request by writing to: Department of Corrections, Standards Development Unit, Suite 430, Metro Square Building, St. Paul, Minnesota 55101, c/o John Stewart, or by calling 612/296-0142.

Under Minn. Stat. § 10A.01, subd. 11, as amended by Laws of Minnesota 1978, ch. 463, § 11, a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute:

"Lobbyist" means any individual:

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

(b) Who spends more than $250, not including his own traveling expenses

and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

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

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

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

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

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

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

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone 612/296-5615.

RECEIVED
JUN 25 1979
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINIMUM STANDARDS GOVERNING ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

John W. Stewart, being duly sworn on oath deposes and says:

1) That he is an employee of the Standards Unit Division of the State of Minnesota.

2) That on the 16th day of April, he 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 persons who had 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 16th day of April, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

John W. Stewart

Subscribed and sworn to before me this 11th day of June, 1979.

Katherine M. Cook

KATHERINE M. COOK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCT. 6, 1983

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption
of Rules of _____ Division
Governing _____

I hereby certify that the attached Public 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 5:30 o'clock P. M. this 16th day of April, 1929, have requested pursuant to M.S. 1927, 15.0412 _____, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

By _____

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINIMUM STANDARDS GOVERNING ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.

AFFIDAVIT OF MAILING

John W. Stewart, being first duly sworn, deposes and says:

That on the 21st day of April, 19 84, at the City of St. Paul, County of Ramsey, State of Minnesota, he 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, on the attached Certificate of the Secretary of State.

John W. Stewart

Subscribed and sworn to before me this 21st day of April, 19 84.

Katherine M. Cook

KATHERINE M. COOK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCT. 6, 1983

STATEMENT OF NEED AND REASONABLENESS

Orientation to Statement of Need

This Statement of Need and Reasonableness is divided into five sections. The first section is a record of events and past efforts of the Minnesota Department of Corrections to establish minimum standards for community correctional facilities. The second part of this statement describes the process that produced the final draft of the proposed rules. The purpose of the third section is to demonstrate the role of the Advisory Task Force. The fourth section is a description of the further refinement of the final draft, and the fifth section states the purpose of these rules. The concluding portion of this Statement of Need contains a written rationale that demonstrates the reasonableness of each proposed rule with a statement of evidence.

I. History of Events Leading to Proposed Rules.

The Department of Corrections first became involved with community correctional facilities in 1965 when it established a system of foster group homes. This was the result of a felt need by field services and institution staff who had juveniles ready to be released on probation/parole, but for one reason or another could not return them to their own homes. In the late 60's some of the workers with juveniles recognized the fact that these group homes were needed by and could be used with youths prior to incarceration. Therefore, in 1969 the Legislature passed a statute enabling county juvenile courts to establish and operate county group homes in accordance with standards set by the Department. Minn. Stat. § 260.185, subd. 1 (c), (5), (1969). It also passed legislation authorizing the

Department to inspect and regulate foster care facilities for delinquent youths, Minn. Stat. § 241.021, subd. 2 (1969).

A group home unit was created and assigned the task of developing policies, procedures, and practices regulating these group homes. These homes were to be monitored and supervised by the Corrections Field Supervisors in whose county the homes were opened. Upon the Supervisor's recommendation, new homes were certified, following inspection and verification that local ordinances and requirements were met. As personnel changed in the group home unit and the unit eventually was abolished, the lack of consistency and uniformity in the implementation of previously written policies became a concern.

The Department's involvement with the adult and juvenile halfway house program (facilities with professional staff) began about the same period of the late 60's. Most of these programs were made possible through the availability of federal funding. These monies were administered through the regions and the Department was not involved in the planning nor the decision of feasibility. Our Grants Administration Unit was assigned to monitor those facilities with which the Department had contracted for beds. This monitoring was initially limited to ensure that the financial structure and administration met certain minimum standards. In 1973, a Community Services Program Coordinator was appointed and program directors began meeting on a regular basis. A cooperative effort between programs and their community was stressed, as well as management training. The main sanction available to the Department has been the threat and actuality of cancelling contracts with facilities which did not live up to Department expectations.

The lack of objective standards by which to operate programs has been felt by inspectors, program operators, Department and county court staff. The Legislative Audit Commission summarized the concerns in a study their staff completed and pub-

lished in February, 1977, "Regulation and Control of Human Services Facilities", and "Department of Corrections Regulatory Functions". All of these considerations led to the amendment of Minn. Stat. 241.021, in March of 1978, which authorized the Department to promulgate minimum standards for community correctional facilities. By September 1, 1980, these facilities must all be licensed under the provisions of these rules.

II. Development of the Proposed Rules.

To carry out the mandate of this law, a Correctional Facilities Standard Unit was created in the fall of 1978. One of the first tasks was to identify "Community Correctional Facilities" and which of these programs would be subject to the attached rules. To begin, we started with a list of 50 adult residential facilities, most of which are currently licensed by DPW under Rule 35 (chemical dependency programs) and 106 juvenile residential facilities licensed under DPW Rules 5 and 6. It was determined that those facilities which primarily provide care for clients who are mentally retarded, mentally ill, or are chemically dependent would not be included as a community correctional facility. The Department had also decided separate rules would be written for facilities that are secure, used primarily for detention and shelter care; treatment institutions including county home schools, ranches and/or residences providing care for populations exceeding twenty youths with self-contained, in-house rehabilitative services. As of January 1, 1979, the programs subject to these attached rules include 24 adult halfway houses, 18 DOC subsidized foster group homes, and 40 Ramsey County foster group homes.

In the initial stages of developing these rules a residential program questionnaire was developed to assist the Standards Development Unit to identify the community correctional facilities and to assess the conditions of these faci-

lities in the areas of management, operation, physical condition, security, and the safety, health, treatment and discipline of persons detained or confined within such facilities. The questionnaire was compiled as a result of research conducted on the Department of Public Welfare residential care Rules 1, 5, 8, and 35; and, standards and guidelines of the American Correctional Association (ACA), the Law Enforcement Assistance Administration (LEAA), the National Advisory Commission on Criminal Justice Standards and Goals (NAC), and the Child Welfare League of America (CWLA). The information gathered from the returned questionnaires was summarized into a profile study for each facility. The profile studies were used in conjunction with national standards of ACA, LEAA, NAC, CWLA, Minnesota DPW Rules 1, 5, 8, and 35; DOC and DPW standards of other states, and drafts written by a committee commissioned by Orville Pung (January 1974), by Betsy Buckley (August 1975) and Jay Budge (1977-78). This material was reorganized and reshaped into a rough draft to be submitted to a citizen's advisory task force.

III. The Advisory Task Force Role.

As these materials were being reshaped and reorganized into a rough draft, a citizen's advisory board was being formed in accordance with Laws of 1978, ch. 778, sec. 6, and the state's open appointment process, Minn. Stat. ch. 15 (1978). Through the open appointment process, names were submitted to the Secretary of State's office and placed on a list where individuals were selected with their permission for appointment by the Commissioner. The final selection and appointment of task force members was accomplished in December 1978, with consideration of the following criteria:

1. At least nine members shall be selected;
2. Representation should include a member from the judiciary serving the juvenile court;

3. Representation should include a member from the County probation officers;
4. Representation should include a member from County board members.

The following eleven members were appointed in December 1978 by Commissioner Schoen to carry out the functions and purpose of the task force:

1. Diane Ahrens, Ramsey County Commissioner, was active in monitoring some of the group homes in St. Paul. She is the former Executive Secretary of the Minnesota Social Service Association and was a social worker in a public agency.
2. Lee Blenkush is director of Port, Rochester, which provides services to adult, juvenile, male and females, through both halfway house and group home programs.
3. Jim Brown is the director of Bremer House (St. Paul), an adult male facility. He is chairman of the Minnesota Community Corrections Association Standards Committee and is the recommended representative of MCCA.
4. Major David Chase, director of Volunteers of America Harborlight. This is an adult residential program located in Minneapolis.
5. Richard DeBeau-Melting is the director of Girls Villa of the Sheriff's Ranch program in Austin, Minnesota. He is a former county probation officer who supervised group homes. He is recommended by the Minnesota Council of Residential Treatment Centers.
6. Burt Gallaway is the founder of Professional Association of Treatment Homes, and has been a foster parent for years. He continues as board member and consultant to the PATH facilities. He was involved in the revision of DPW rules regulating group homes and foster care facilities and teaches at the University of Minnesota in Duluth.
7. Judge Willard Lorette, Stearns County, was most recently involved in the opening of the Okay House in St. Cloud and is reported to have had long-term interest in group homes.
8. William Nelson is director of the Minneapolis Volunteers of America Resi-

dential Program which includes both adult and female adult and a juvenile male facility. His adult program is monitored by the Federal government so he is knowledgeable of that process. He also is the former director of DOC group homes and has a broad background to bring to the Task Force.

9. Chris Peterson is the director of Group Homes for Ramsey County. He is a former parole agent with youth offenders and director of Team House, a halfway house in St. Paul.

10. Carole Smith from St. Paul, is currently Executive Secretary of Minnesota Corrections Association and was recommended by their executive committee. The expertise she brings is her former assignment as DOC supervisor of group homes. Since it is these foster group homes to be the most difficult group to bring together, her contacts and knowledge are very useful.

11. Wayne Wendel is the county probation officer from Todd-Wadena counties and supervises several group homes, and he is in a community corrections county.

To carry out its function, the full Task Force met every month from February through May 1979 to review materials for the proposed rule. To speed the work, the full committee divided into tasks groups to review, modify, and/or delete portions of the adult halfway house and group foster drafts. At each monthly meeting this process continued until the Task Force recommended the proposed rule to the Commissioner for his approval in May 1979. At that time the Commissioner reviewed the document with his staff and approved the proposed rule establishing minimum standards for group foster homes and adult halfway houses.

IV. Refinement of Draft on Proposed Rules.

During the period from the last Advisory Task Force meeting on May 17, 1979, contacts were established with representatives of the State Register's Office,

the Office of the Hearing Examiner, and James Bradford, the Department's representative from the Attorney General's Office. Other contacts and additional informational meetings occurred between the Standards Development Unit and facility operators. As a result of these contacts additional changes in the proposed rules were made prior to the submission of the final draft of the proposed rules to the Office of the Hearing Examiner. For example, informational, duplicative or guideline materials were deleted but important additions were made as well (see appendix A). These materials while not published in the State Register, retain the intent of the rules as approved by the Advisory Task Force and the Commissioner.

Throughout the process of rule development, the Department has sought to advise those concerned of the process and to solicit opinions. Examples are:

1. On January 30, 1979, at St. Cloud, Minnesota -- meet with Corrections Field Supervisors and county probation agents.
2. On March 21, 1979 at St. Paul, Minnesota -- meet with Minnesota Department of Public Welfare, Licensing Department officials.
3. On April 4, 1979 at Cambridge, Minnesota -- meet with the county probation officers and visited a youth shelter.
4. On May 15, 1979 at Faribault, Minnesota -- meet with county probation officers and group home employees.
5. On May 29, 1979 at Winona -- meet with county probation officers and group home operators and employees.

In addition to the above, field trips were made to various group foster homes, shelters, adult halfway houses, residential treatment centers and juvenile halfway houses. Furthermore, department staff members made a presentation discussing the proposed rules at the Minnesota Corrections Association workshop in May, 1979, and served as resource persons for the Minnesota Community Corrections Association, Association of St. Paul Communities, and the St. Paul Zoning Commission.

V. Purpose of Proposed Rules.

The purpose of the Advisory Task Force and the Department is that the proposed rules will provide a fair and objective framework for the licensing and monitoring of these correctional facilities. For the same reason that the State of Minnesota has inspected jails, treatment centers, etc., these proposed rules provide for the health, safety and care for those living in group foster homes and adult halfway houses.

As an additional purpose, these proposed rules, if effected and enforced, will provide operators with a framework for achieving operational consistency and upgrading the continuity of care.

Summary

In summary the Advisory Task Force and the Department recognize that the final draft is a vital document that reflects the realities of existing conditions, financial and other constraints needed to improve buildings or to add staff. The proposed rule has resulted from extensive search of numerous documents and from considerable contact and careful consultation with individuals, groups and agencies. Although, there will never be unanimous agreement on these proposed rules, our intent is that they serve as minimum standards for Adult Halfway Houses and Group Foster Homes.

STATEMENT OF NEED AND REASONABLENESS

ADULT HALFWAY HOUSE RULES

Chapter 1

CORR. 401 INTRODUCTION

rationale: A. This rule establishes the legislative authority for promulgation of rules establishing minimum standards for Community Corrections Facilities.

evidence: Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778.

rationale: B. This rule clarifies that an Advisory Task Force was appointed as mandated by the State Legislature.

evidence: Laws of 1978, ch. 778, sec. 6.

rationale: C. This rule states that the purpose of proposed rules is to provide a framework for inspection and licensing of Community Corrections Facilities.

evidence: Minn. Stat. § 241.021 (1978).

STATEMENT OF NEED AND REASONABLENESS

CORR. 402 DEFINITIONS

rationale: Definitions are necessary in clarifying the terms used in the proposed rules. It is imperative that all concerned individuals, operators and agencies clearly understand the meaning of the terms and are in agreement with them.

CORR. 403 LICENSING PROCEDURES

rationale: A. Legal Basis. This rule provides the legal basis for establishing licensing procedures for Adult Halfway Houses.

evidence: Minn. Stat. § 241.021 (1978).

rationale: B. Inspection. This rule provides notice to the applicant that the minimum standards established in these rules will be used to inspect all Adult Halfway Houses.

evidence: Minn. Stat. § 241.021 (1978).

rationale: C. Original application for license. This rule provides time for the licensing procedure to be carried out prior to the date the facility expects to operate, and gives notice to the applicant that the licensing process will be based on the minimum standards established in these rules.

evidence: Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), pp. 3-4.

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part F (1), (1969).

rationale: C.2. This rule provides for the availability to the Commissioner of materials relevant to the nature of the Adult Halfway Houses, its program and administration which will aid in the determination of suitability for licensure.

evidence: Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), pp. 3-4.

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part F (1), (1969).

rationale: C.2.g. This rule enables the Commissioner to investigate facilities that the applicant has operated or is currently operating.

evidence: Diane Ahrens, Witness.

rationale: C.2.l. This rule ensures that those persons who are in contact with residents do not have tuberculosis.

evidence: Minnesota State Board of Health: rule MHD § 392 (1974), part J (1).

rationale: D. Renewal License. This rule provides notice to the applicant of the procedures to be followed for relicensure upon expiration of previous license, and places the burden on the applicant to document changes made in the operation of the Adult Halfway House.

CORR. 403 LICENSING PROCEDURES

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part H (7).

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (6)(a), (1977).

Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), p. 5.

rationale: D.2. This rule provides for the availability to the Commissioner of materials relevant to the nature of the Adult Halfway House, its program, and administration which will aid in the determination of suitability for licensure; and requires update of materials that document aspects of the CCF which change from year to year.

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part H (7).

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (6)(a), (1977).

Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), p. 5.

rationale: E. Provisional License. This rule provides for: 1) an initial period under which a facility will operate provisionally, prior to the granting of a license; so that the Department has an opportunity to deny or grant a license, based on observation of the actual performance of a CCF; and the CCF has an opportunity to come into substantial compliance with these rules, and 2) the rule provides for a provisional license when a facility does not substantially meet licensing requirements, as an opportunity to come into compliance or as a prelude to revocation if substantial compliance is not accomplished in the time provided.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring Institutions (1977), p. 1.

Virginia Department of Welfare: Minimum Standards For Licensed Child Care Institutions (1977), p. 5.

Public Welfare Licensing Act, Minn. Stat. § 245.801 (1978).

Minn. Stat. § 241.021, subd. 1, sub sec. 1 (1978).

STATEMENT OF NEED AND REASONABLENESS

CORR. 403 LICENSING PROCEDURES

rationale: F. Conditions of License. 1. This rule ensures that no Adult Halfway House can obtain a license and then change any noted conditions of the license.

evidence: Public Welfare Licensing Act, Minn. Stat. § 245.783, subd. 6 (1978).

rationale: F.2. Limitations must be set to ensure that Adult Halfway House staff devote sufficient time to each resident.

evidence: Public Welfare Licensing Act, Minn. Stat. § 245.783, subd. 5 (1978).

rationale: F.3. This rule gives notice that an Adult Halfway House must be licensed by the Commissioner.

evidence: Minn. Stat. § 241.021, subd. 1 (1978).

rationale: F.4. This rule gives notice to the applicant that no persons shall be placed in an Adult Halfway House prior to its being licensed.

evidence: Minn. Stat. § 241.021, subd. 1 (1978).

rationale: F.5. This rule gives notice to the applicant that there is no fee for licensure.

evidence: Department of Corrections decision.

rationale: G. Revocation, Suspension, Provision and Denial of License. This rule prevents abuse of the Licensing power and provides notice of the conditions under which a license may be made provisional, be revoked, suspended or denied. This rule also ensures that those applicants who are issued licenses have not had a poor operating history.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring Institutions (1977), pp. 1-2.

Diane Ahrens. Witness.

rationale: H. Restriction of the Use of an Adult Halfway House. This rule provides notice to the applicant of the Commissioner's authority to restrict the use of any Adult Halfway House which does not substantially conform to the minimum standards.

evidence: Minn. Stat. § 241.021, subd. 1 (1978).

rationale: I. Waiver of Specific rule. This rule is to prevent undue hardship and to provide flexibility of the rules.

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part J (1), (1969).

CORR..403 LICENSING PROCEDURES

rationale: J. Study of application. This rule provides the Commissioner with an opportunity to evaluate an applicant according to these standards thereby insuring that the Commissioner's decision will be as informed as possible.

evidence: Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), p. 4.

rationale: K. Notice To The Applicant Of Commissioner's Action. This rule explains to the applicant the procedure by which the applicant will be informed of the Commissioner's decision.

evidence: Virginia Department of Public Welfare: Minimum Standards For Licensed Child Caring Institutions, (1977), p. 4.

rationale: L.1. & 2. Appeal Procedure. This rule guarantees that applicants are not denied due process when a license is denied, suspended or revoked.

evidence: Public Welfare Legislative Act, Minn. Stat. § 245.801, subds. 4-5 (1978).

rationale: M. When a license has been revoked. . . This rule provides means of penalizing blatantly poor service and operation.

evidence: Public Welfare Legislative Act, Minn. Stat. § 245.801, subd. 6 (1978).

rationale: N. Failure of the Commissioner to deny or approve an applicant. This rule protects applicants against undue delay in the licensing procedure.

evidence: Public Welfare Legislative Act, Minn. Stat. § 245.801, subd. 3 (1978).

CORR. 404 SEVERABILITY

rationale: This rule advises Adult Halfway House Facility Administrators that the validity of the remaining rules shall not be jeopardized if one of the proposed rules is found inoperative.

evidence: Minnesota Department of Corrections: Standards For Holding Facilities, Lockups, Jails and Adult Correctional Facilities, 11 MCAR § 2.102, part D (1978).

STATEMENT OF NEED AND REASONABLENESS

ADULT HALFWAY HOUSE RULES

CORR. 408 ORGANIZATION AND ADMINISTRATION OF HALFWAY HOUSES

rationale: A.1. This rule notifies applicants that non-profit Adult Halfway Houses must comply with state law regarding non-profit corporations.

evidence: Minn. Stat. § 317.65 (1978).

rationale: A.2. This rule notifies applicants that if an Adult Halfway House is to operate as a private profit corporation it must be constituted in accordance with state law.

evidence: Minn. Stat. ch. 300. (1978).

rationale: B. The proposed rule requiring written policies to clarify agency purposes, programs and services offered, is necessary to avoid misunderstanding as to the aims of the CCF.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2005, p. 2.

rationale: C. Meetings between the governing board and the administrator are needed, as stated in the rule, to facilitate communications, establish policy, explore problems, ensure conformity to legal and fiscal requirements, and implement the program. This rule will ensure that the governing board of a CCF will be actively in the CCF's operation.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2002, p. 5.

rationale: D. Records of the facility's activities must be maintained in order to document compliance with these rules. This rule also provides notice to the applicant that facility records are subject to the review of the Commissioner, as provided by state law.

evidence: Minn. Stat. § 241.021, subd. 1, (1978).

rationale: E. This rule is needed to ensure that policies are current and are applied consistently.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2006, p. 2.

rationale: F. Conflict of Interest. This provision guards against any possible conflict of financial interest between a governing board and the business of the agency thereby ensuring that governing board decisions will be made in the CCF's best interests.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2010.

CORR. 408 ORGANIZATION AND ADMINISTRATION OF HALFWAY HOUSES

rationale: G. This requirement is needed to require the informing of the public of CCF's tax status in order to prevent fraud, misrepresentation, or confusion.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2019, p. 4.

rationale: H. This rule is needed to ensure that all CCF's are operating legally within their particular jurisdictions.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2017, p. 4.

rationale: I. A single administrator is needed to identify primary responsibility for the overall operation of the facility as well as to determine the authority for facility decision making.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2003, p. 1.

rationale: J. This rule ensures operational consistency, communications and evaluations in monitoring program operations. Such monitoring will enable the CCF to note areas where improvements can be made and to make them accordingly.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2008, p. 3.

rationale: K. An operations manual is needed to provide staff with guidelines for the day-to-day operations of the program. A manual can easily be available for reference, thereby ensuring that staff members have ready answers to operational problems, that the program operates consistently over periods of time, and that all residents are treated in the same manner by the staff.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2007, p. 2.

rationale: L. This rule is needed to ensure that all CCF's are operating legally within their particular jurisdictions.

evidence: United States Justice Department, Law Enforcement Assistance Administration, Technical Assistance Division, Guidelines and Standards for Halfway Houses and Community Treatment Centers, (1973), p. 77.

CORR. 408 ORGANIZATION AND ADMINISTRATION OF HALFWAY HOUSES

rationale: M. This rule ensures the health and safety of the residents living in the Adult Halfway House.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2064 through 2067, p. 13.

CORR. 412 FISCAL MANAGEMENT OF ADULT HALFWAY HOUSES

rationale: A. Budget. This rule is needed to ensure that the facility administrator or fiscal officer is able to identify the costs of carrying out the goals of the program, to develop a budget document that reflects responsible financial practice; and to justify his budget plan.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Sections 2027 through 2029, p. 6.

rationale: B. Budget Revisions. This rule is needed to ensure that appropriate methods are used in computing all budget revisions and are in compliance with sound financial management and CCF policy.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2030, p. 6.

rationale: C. Fiscal Audits. Fiscal audits are needed to document sound financial management and to ensure compliance with these rules.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2033, p. 7.

rationale: D. Distribution of Financial Reports. Requiring the CCF to distribute financial information to its governing board and affected agencies and individuals will provide extra scrutiny of financial management. Such scrutiny will promote CCF accountability for spending and will further promote sound financial management.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2034, p. 7.

rationale: E. Written Fiscal System. A written fiscal system is needed to regulate how all monies are handled internally within the CCF, thereby ensuring that all CCF funds are spent as budgeted.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2035, p. 7.

rationale: F. This rule is necessary to ensure that the CCF fulfills to all wage and compensation agreements the CCF has made with its employees and consultants.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2039, p. 8.

STATEMENT OF NEED AND REASONABLENESS

CORR. 412 FISCAL MANAGEMENT OF ADULT HALFWAY HOUSES

rationale: G. Insurance Coverage. This rule provides protection for the facility, employees, residents and third parties in the event of injury or property damage which could otherwise financially impair CCF.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2036, p. 7.

CORR. 416 PERSONNEL

rationale: A.1. Personnel Policies. This rule ensures that written personnel policies exist to assist the employees in performing their responsibilities.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Sections 2040 through 2042, pp. 8-9.

rationale: A.2. Availability of Personnel Policies to Employees. This rule ensures that employees are aware of policies that govern conditions of employment and that the employees are clearly informed of their responsibilities.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Sections 2040 through 2042, pp. 8-9.

rationale: A.3. Availability of Personnel Policies to the Commissioner. This rule provides notice to the facility administrator of the Commissioner's authority to review the facility's personnel policies.

evidence: Minn. Stat. § 241.021, subd. 1 (1977).

rationale: B. Provisions for Time Off. . . This rule ensures that adequate time off and employment benefits are provided for staff so as to maintain satisfaction, freshness and creativity.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2058, p. 12.

rationale: C. Substitute Arrangements for Care. This rule prevents neglect of and provides continuous care of the residents.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part F (6)(a), (1977).

rationale: D. Twenty-Four Hour Staff Availability. This rule ensures that there is adequate staff coverage at all times in case of emergencies and unexpected situations.

evidence: Child Welfare League of America, Standards for Group Home Service For Children, (1978), pp. 48-49.

rationale: E. Staff Ratio. This rule ensures that there is a sufficient number of staff on duty to meet the needs of the residents and to provide adequate supervision.

STATEMENT OF NEED AND REASONABLENESS

CORR. 416 PERSONNEL

evidence: Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part E (2), (1971).

rationale: F. Confidential Personnel Records. This rule ensures that employee records are accurate, current, confidential and protected against unwarranted examination.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), sections 2048 and 2049, p. 10.

rationale: G.1. Orientation. This rule ensures that new employees and volunteers are provided with an overview of the facility's program, policies and procedures.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2053, p. 11.

rationale: G.2. Minimum of 18 Hours of Annual Training. The intent of an ongoing training program is to build on the employees' initial interest in providing service and to maximize their ability to provide highest quality services to the residents.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, parts D (7) (a,c,d, and f), (1977).

rationale: G.3. Cultural Awareness Training. This rule is needed to ensure that staff and volunteers working with minority residents are equipped to deal with problems common among individuals of other cultural and ethnic groups.

evidence: Minnesota Department of Public Welfare: Proposed Rule for Child Care Services to Replace 12 MCAR §§ 2.005 and 2.008, (1978), p. 8.

rationale: G.4. and 5. First Aid Training. These rules ensure that there will always be staff available who are equipped to provide First Aid Care in medical emergencies.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2118, p. 24.

rationale: G.6. Availability of Training. This rule ensures that the CCF accepts the burden of training staff, thereby also ensuring that staff members are compensated for hours spent in training.

evidence: Advisory Task Force recommendation.

CORR. 416 PERSONNEL

rationale: G.7. Referral Resources. This rule ensures that where the staff is not qualified to handle a resident's special problem, they will at least be in a position to see that the resident gets help elsewhere.

evidence: Department of Corrections policy.

rationale: H. Evidence of Mantoux Test or Chest X-ray. This rule ensures that those persons who come in contact with the residents do not have tuberculosis.

evidence: Minnesota State Board of Health, rule MHD § 392 (1974), part J (1).

rationale: I. Qualifications of Staff. Recruitment requirements are needed to ensure that employees hired or persons providing professional services are qualified to perform the duties required in a particular job and to discharge all responsibilities.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2043, p. 9.

rationale: J. Volunteers. This rule is needed to ensure that volunteer service will not adversely affect the overall quality of service in the CCF.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), sections 2134 - 2137, p. 27.

rationale: K. This rule ensures the maturity of the paid and volunteer staff.

evidence: Advisory Task Force recommendation.

STATEMENT OF NEED AND REASONABLENESS

CORR. 418 ADMISSIONS AND PLACEMENT POLICIES

rationale: A. Admissions Policies. This rule is needed to ensure that referral sources have adequate information to process as many potential residents as possible and to ensure that the selection of clients is based upon valid and consistent criterion rather than arbitrary selection by CCF staff.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2082, p. 16.

rationale: B. Admission Form. This rule ensures that the resident is easily identifiable, that data is available for statistical purposes, and that information is easily accessible in case of emergency.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2083, 0. 16

rationale: C. Medical Examination. This rule is needed to ensure that residents' physical problems are identified, to prevent the spread of communicable disease.

evidence: Minnesota Department of Public Welfare, Rule for the Licening Operation of all Residential Programs for Inebriate and Drug Dependent Persons, 12 MCAR § 2.035, part D (8)(a), (1974).

rationale: D. Orientation. Resident orientation is needed to ensure that when a resident is admitted into the CCF, he/she is fully aware of all rules, policies, and CCF expectations. This prior information will help in the treatment process by encouraging the resident to consider the consequences of his/her actions.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2087, p. 17.

rationale: E. Progress Reports. This rule ensures that the progress of the resident is monitored by requiring written proof that the treatment plan is being implemented. In addition, the written report provides court officials and corrections officials with data with which to review the resident's progress.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2101, p. 20.

STATEMENT OF NEED AND REASONABLENESS

CORR. 418 ADMISSIONS AND PLACEMENT POLICIES

rationale: F. Completion of or Termination From Program. This rule is needed to ensure that before a potential resident is admitted into the CCF, he/she is fully aware of all CCF expectations and requirements. This prior information will help in the treatment process by encouraging the resident to consider the consequences of his/her actions.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2087, p. 17.

STATEMENT OF NEED AND REASONABLENESS

CORR. 420 PROGRAM

rationale: A. Treatment Plan. This rule ensures that the special needs of each resident are identified and met and that the resident is actively involved in developing his/her treatment plan.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2099, p. 20.

rationale: B. & C. Family and Community Involvement. These rules ensure that Adult Halfway House placement will facilitate the objective of resident reintegration into community life including strengthening of relationships with relatives, friends and employers.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), sections 2090, 2092, 2093, 2095, pp. 18-19.

rationale: D.1. & 2. Work Assignments. These rules are needed to ensure that residents are capable of performing assigned tasks, that work assignments are distributed equally among residents, that residents are not exposed to any serious dangers, exploited or abused by means of work assignments.

evidence: New Hampshire Department of Health and Welfare: Regulations and Standards For Licensing Group Homes, (1972), p. 5.

Pennsylvania Department of Public Welfare: Proposed Regulations on General Child Caring Facilities, Both Community-Based and Facility-Based and Group Home Service, (1978), sections 2-33B-159 through 161, p. 344.

rationale: D.3. This rule is necessary to ensure that the residents are informed of their rights and that they are assisted in their reintegration into society if they transferred from a secure correctional institution.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6106, p. 21.

rationale: D.4. Many residents in Adult Halfway Houses have been placed there in order to bypass or shorten a prison term. Thus it is appropriate for the CCF to make periodic checks into the residents' activities outside the CCF in order to provide protection for the community. The policy for such checks must be written in order to prevent arbitrary treatment or harassment of an individual resident.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), sections 2178 and 2183, pp. 36-37.

CORR. 420 PROGRAM

rationale: E. House Rules. This rule ensures that an Adult Halfway House has group meetings which will instill a feeling of community, reinforce the concepts of community norms, and exert authority and influence over residents by means of a positive peer culture.

evidence: Child Welfare League of America: Standards For Group Home Service For Children, (1978), pp. 24 and 26, sections 3.4 - 3.10.

rationale: E.3. Grievance Procedure. This rule ensures that residents have notice of rules, residents' rights and the grievance procedure.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2097, p. 21.

rationale: F. Religion. This rule protects the residents' Constitutional rights to freedom of religion. These rights can be abridged only where granting them would directly interfere with the reasonable security and discipline of the facility. Abridgement in these cases is necessary in order to protect the community and ensure that the treatment program is as effective as possible.

evidence: Advisory Task Force recommendation.

CORR. 424 NUTRITION AND FOOD

rationale: A. Nutritional Standards. This rule ensures that residents are not malnourished.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2107, p. 22.

Minnesota State Board of Health, rules MHD § 55, parts (e) and (f), and MHD § 395, (1974).

rationale: B. Sanitation and Health Codes. Compliance with this rule is necessary to protect the health and safety of the residents.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2108, p. 22.

rationale: C. Three Meals a Day. This rule is needed to ensure that residents are adequately fed.

evidence: Advisory Task Force recommendation.

CORR. 428 SPECIAL PROCEDURES

rationale: A. Discipline and Disciplinary Action. This rule ensures that the residents are protected against harsh or threatening methods of discipline that could be damaging to them. A written policy is needed to ensure that individual residents are not treated arbitrarily.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), sections 2130 and 2131, p. 26.

rationale: B. Room Restriction, Facility Restriction and Privilege Suspension. This rule is needed to ensure that when a resident's movements both within and outside of the CCF need to be controlled, there are safeguards for the resident's physical and mental well-being and against arbitrary and unreasonable restrictions.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6173 through 6179, pp. 34-35.

rationale: C. These rules ensure the safety and protection of the community, staff and residents; promote privacy; preserve personal property; and provide control over residents.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2133, p. 27.

Advisory Task Force recommendation.

rationale: D. Personal Possessions. Residents shall be allowed to keep personal possessions in order to enhance their feelings of self worth, dignity and responsibility. Additionally, this rule is needed to ensure that there will be no misunderstanding as to the types of possessions are considered contraband.

evidence: Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F (2) (b), (1971).

Minnesota Department of Public Welfare: Standards For Group Homes and Licensing Procedures, 12 MCAR § 2.008, parts G (5) (g and h), (1969).

rationale: E. Relative to Public Reports. This rule prevents the exploitation of residents.

evidence: Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part D (2) (h), (1971).

Advisory Task Force recommendation.

STATEMENT OF NEED AND REASONABLENESS

CORR. 428 SPECIAL PROCEDURES

rationale: F. Searches. Many residents in Adult Halfway Houses have been placed there in order to bypass or shorten a prison term. Thus it is appropriate for the safety and protection of the residents, staff and community, for the staff to be able to search residents' property for weapons, drugs, stolen property, and other contraband. The policy for such searches must be written in order to prevent arbitrary treatment or harassment of an individual resident. Public scrutiny of search policies is needed as an added protection for the residents.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2132, p. 26.

CORR. 432 PHYSICAL FACILITY

rationale: A. This rule ensures the health and safety of the residents living in the CCF.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2064, p. 13.

Minnesota Department of Public Welfare, Standards for Child Caring Institutions, 12 MCAR § 2.005, part F, (1971).

Minnesota Department of Public Welfare, Standards for Group Homes and Licensing Procedures, 12 MCAR § 2.008, parts G (3) and (4), (1969).

rationale: A.1. This rule provides notice to the facility administrator of his/her responsibility.

evidence: Advisory Task Force Recommendation.

rationale: A.2. This rule provides proof to the Commissioner that the CCF is in compliance with all fire, health and safety rules.

evidence: Advisory Task Force Recommendation.

rationale: B. This rule ensures the safety of staff, residents and visitors.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Sections 2126 through 2128, p. 25.

rationale: C. This rule ensures that the staff are aware of the emergency plans and that the directions are readily available in case of emergencies.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2126, p. 25.

rationale: D. This rule ensures the health and safety of the residents living on the premises of the CCF.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2068, p. 14.

rationale: D.1. This rule ensures that all proposed building alterations and additions are given prior approval by appropriate authorities.

STATEMENT OF NEED AND REASONABLENESS

CORR. 432 PHYSICAL FACILITY

evidence: Advisory Task Force Recommendation.

Mississippi Department of Public Welfare, Standards for Child Caring Institutions, (1977), p. 2.

Virginia Department of Welfare, Minimum Standards for Licensed Child Care Institutions, (1977), p. 5.

Minnesota Department of Public Welfare, Standards for Child Caring Institutions, 12 MCAR § 2.005, part F (2)(a), (1971).

rationale: D.2. This rule ensures that the CCF has an adequate heating system that provides a comfortable temperature range throughout the year.

evidence: Pennsylvania Department of Public Welfare, Proposed Regulations on General Child Caring Facilities, Both Community-Based and Facility-Based and Group Home Service, (1978), p. 346.

rationale: D.3. Bedrooms. This rule ensures that the facility complies with Minnesota State Board of Health, Rule MHD § 393 (1974) as required by Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

evidence: Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

Minnesota State Board of Health, rule MHD § 393, part e (1974).

rationale: D.4. This rule ensures that the residents are adequately provided with necessities, quarantees privacy for the residents and promotes individual self worth.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2073, p. 14.

rationale: D.5.(a) This rule discourages several relationships between co-ed residents and promotes privacy.

evidence: Advisory Task Force Recommendation.

Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards for Juvenile Community Residential Services, (1978), Section 6085, p. 16.

rationale: D.5.(b) This rule ensures that juvenile offenders are not mixed with adult offenders.

evidence: Advisory Task Force Recommendation.

Minn. Stat. § 636.07 (1978).

CORR. 432 PHYSICAL FACILITY

rationale: D.6. This rule specifies that there is adequate space for confidential counseling services and that there is enough space to facilitate group meetings.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Sections 2075 through 2077, p. 15.

rationale: D.7. Bathrooms. This rule ensures that the facility complies with Minnesota State Board of Health, rule MHD § 393, part (i) (1 and 2), (1974), as required by Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

evidence: Minnesota State Board of Health, rule MHD § 393, (i) (1 and 2).

Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

rationale: D.8. Laundry Facility. This rule ensures that the residents have clean clothes available.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), Section 2081, p. 16.

The Advisory Task Force recommended that the ratio be one washer and one dryer to every twenty residents, since they felt this is adequate to meet the needs of the residents.

rationale: E. This rule is necessary to prevent damage or abuse to agency vehicles; assure emergency transportation and to separate responsibility for agency vehicles from resident vehicles.

evidence: Advisory Task Force Recommendation.

Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Juvenile Community Residential Services, (1978), Sections 6087 and 6088, p. 17.

rationale: F. This rule is necessary to assure that licensing requirements are met in respect to whom may live in the facility, and that all persons living in the CCF have positive influences on the residents.

Advisory Task Force Recommendation.

CORR. 436 HEALTH CARE AND MEDICAL SERVICES

rationale: A. This rules ensures that in the event that medical, dental or ambulance services are needed that staff have standard procedures to guide their actions.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2120, p. 26.

rationale: B. This rule ensures that the financial responsibility for medical coverage is arranged upon admission so the resident may receive adequate medical care when necessary.

evidence: Department of Corrections policy.

rationale: C. This rule ensures that staff are aware of the kinds of medical care that they can administer and how to handle emergency cases.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), sections 2118 and 2120, p. 24.

rationale: D. This rule ensures that medication is dispensed to a resident only according to the written orders of a licensed physician.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2125, p. 25.

Minn. Stat. § 152.11 (1978).

rationale: E. This rule ensures the control over drug supply and usage.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Correctional Institutions, (1977), section 4267, p. 51.

Advisory Task Force recommendation.

rationale: F. This rule is necessary to prevent any potential abuse or danger to a resident stemming from medical or pharmaceutical experiments.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Correctional Institutions, section 4127, p. 24.

rationale: G. This rule assures that a staff member is available at all times to provide residents with emergency first aid care.

evidence: Commission on Accreditation For Corrections, American Corrections

CORR. 436 HEALTH CARE AND MEDICAL SERVICES.

evidence: (cont.) Association: Manual of Standards For Adult Community Residential Services, (1977), section 2118, p. 24.

rationale: H. This rule ensures that a CCF has an established network with health care facilities to meet the potential health and medical needs of the resident.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2112, p. 24.

rationale: I. This rule ensures that first aid equipment will be available at all times.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Adult Community Residential Services, (1977), section 2117, p. 23.

STATEMENT OF NEED AND REASONABLENESS

ADULT HALFWAY HOUSE RULES

CORR. 440 RECORDS AND EVALUATION

rationale: A.1. Case records are needed to provide the structure for case analysis and program planning, and provide documentation of program participation. Safeguards are necessary to protect both residents and the facility from loss of records and misuse.

evidence: Minnesota Department of Public Welfare, Standards for Family Foster Care and Group Family Foster Care, 12 MCAR § 2.001, part I (2), (1977).

Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), sections 2153, 2154, 2156, p. 31.

rationale: A.2.a. and b. These rules ensure that the resident will have an ongoing medical history that will be available for future use.

A.2.c. This rule ensures that the progress of the resident is monitored by requiring written proof that the treatment plan is being implemented. In addition, the written report provides court officials and corrections officials with data with which to review the resident's progress.

A.2.d. Requiring that all correspondence relevant to a specific resident be kept in the case record ensures easy retrieval of the information from that resident's file.

A.2.e. This rule ensures that the resident is easily identifiable, that data is available for statistical purposes, and that information is easily accessible in case of emergency.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), sections 2100, 2101, 2153, 2154, pp. 20 and 31.

rationale: A.3. This rule permits the necessary sharing of information between individuals or agencies directly involved in the resident's treatment plan in order to ensure that such treatment is as effective as possible, while at the same time protecting resident's privacy rights.

evidence: Minn. Stat. § 15.162, subds. 3, 5, and 5a (1978).

rationale: A.4. and 5. These rules provide basic protection for the resident's rights to privacy and ensure uniform, consistent application of procedures between residents and over varying time periods. Consent must be given immediately prior to each release in order to ensure that the consent is informed as to each individual release of information rather than a blanket consent which would not fully protect the resident's rights.

CORR. 440 RECORDS AND EVALUATION

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), sections 2162 and 2163, p. 33.

rationale: A.6. This rule ensures that case records will be handled consistently. Upkeep and maintenance of records are necessary for any follow-up treatment.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), section 2160, p. 32.

rationale: A.7. This rule is necessary to protect the resident's right to know what their case records contain. By inspecting their records they can ensure that the information is current, complete and accurate.

evidence: Department of Corrections policy.

Minn. Stat. § 15.165 (1978).

rationale: B.1. and 2. Personnel Records. A personnel record is necessary to document staff qualifications, satisfaction of training requirements, satisfaction of health requirements, history of work experience; record wage and salary information; and provide an objective basis for job performance evaluation. Each employee should be able to review his or her personnel record in order to see that it is current and to check for omissions or inaccuracies.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), sections 2048 through 2051, p. 10.

Minn. Stat. § 15.165 (1978).

rationale: C. Facility Records. Records of the facility's activities must be maintained in order to document compliance with these rules.

evidence: Minn. Stat. § 241.021, subd. 1, subsection 1 (1978).

rationale: D. Evaluation. 1. An organized system of information collection, retrieval and review is necessary to provide the CCF with information with which to determine the type of participant best served by the facility and any trends in its referral and intake system, and to be used for the future planning of the Adult Halfway House.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Adult Community Residential Services, (1977), section 2172, p. 35.

CORR. 440 RECORDS AND EVALUATION

rationale: D.2. A written policy and procedure for participation in research programs is necessary to protect against negative effects from experiments and to ensure that all residents are given the same protections against abuse.

evidence: Commission on Accreditation for Corrections, American Corrections Association, Manual of Standards for Juvenile Community Residential Services, (1978), Section 6129, p. 44.

STATEMENT OF NEED AND REASONABLENESS

GROUP FOSTER HOME RULES

Chapter 2

CORR. 444 INTRODUCTION

rationale: A. This rule establishes the legislative authority for promulgation of rules establishing minimum standards for community corrections facilities.

evidence: Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778.

rationale: B. This rule clarifies that an advisory task force was appointed as mandated by the State Legislature.

evidence: Laws of 1978, ch. 778, sec. 6.

rationale: C. This rule states that the purpose of proposed rules is to provide a framework for inspection and licensing of Group Foster Homes.

evidence: Minn. Stat. § 241.021 (1978).

STATEMENT OF NEED AND REASONABLENESS

CORR. 445 DEFINITIONS

rationale: Definitions are necessary in clarifying the terms used in the proposed rules. It is imperative that all concerned individuals, operators and agencies clearly understand the meaning of the terms and are in agreement with them.

rationale: G. A group of eight children is optimum because it is small enough to allow for individualization and large enough to remain a group even if a member is absent. In addition, the maximum number of youth placed in Group Foster Homes must be flexible and must enable the Group Foster Home to provide a positive peer culture. The influence of a group of adolescents on each other in a group setting cannot be overestimated. Peers can often be more blunt in approval or criticism of a child than Group Foster Parents.

evidence: Child Welfare League of America: Standards For Group Home Service For Children, (1978) pp. 25 and 27.

Chris Peterson, Witness.

CORR. 446 LICENSING PROCEDURES

rationale: A. Legal Basis. This rule provides the legal basis for establishing procedures for Group Foster Homes.

evidence: Minn. Stat. § 241.021 (1978).

rationale: B. Inspection. This rule provides notice to the applicant that the minimum standards established in these rules will be used to inspect all Group Foster Homes for correctional clients.

evidence: Minn. Stat. § 241.021 (1978).

rationale: C. Original application for license. This rule provides time for the licensing procedure to be carried out prior to the date the facility expects to operate, and gives notice to the applicant that the licensing process will be based on the minimum standards established in these rules.

evidence: Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), pp. 3-4

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part F (1), (1969).

rationale: C.2. This rule provides for the availability to the Commissioner of materials relevant to the nature of the Group Foster Home, its program and administration which will aid in the determination of suitability for licensure.

evidence: Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), pp. 3-4

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part F (1), (1969).

rationale: C.2.b. References must not be from Department employees nor relatives of the applicants to help ensure objectivity in the determination of licensure.

evidence: Texas State Department of Public Welfare: Minimum Standards For Foster Group Homes, (1976), p. 1 (A(L)).

rationale: C.2.e. This rule ensures that those persons who are in contact with foster youths do not have tuberculosis.

evidence: Minnesota State Board of Health: rule MHD § 392 (1974), part J (1),

Minnesota Department of Public Welfare: Standards For Family Foster Care and Group Family Foster Care, 12 MCAR § 2.001, part D (6) (a). (1977).

CORR. 446 LICENSING PROCEDURES

rationale: C.2.g. This rule enables the Commissioner to investigate facilities that the applicant has operated or is currently operating.

evidence: Diane Ahrens, Witness.

rationale: D. Renewal License. This rule provides notice to the applicant of the procedures to be followed for relicensure upon expiration of previous license, and places the burden on the applicant to document changes made in the operation of the Group Foster Home.

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part H (7).

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (6)(a), (1977).

Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), p. 5.

rationale: D.2. This rule provides for the availability to the Commissioner of materials relevant to the nature of the Group Foster Home, its program, and administration which will aid in the determination of suitability for licensure; and requires update of materials that document aspects of the GFH which change from year to year.

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part H (7).

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (6)(a), (1977).

Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), p. 5.

rationale: E. Provisional License. This rule provides for: 1) an initial period under which a facility will operate provisionally, prior to the granting of a license, so that the Department has an opportunity to deny or grant a license, based on observation of the actual performance of a GFH, and the GFH has an opportunity to come into substantial compliance with these rules; and 2) the rule provides for a provisional license when a facility does not substantially meet licensing requirements, as an opportunity to come into compliance or as a prelude to revocation if substantial compliance is not accomplished in the time provided.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring Institutions (1977), p. 1.

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evidence: (cont.) Virginia Department of Welfare: Minimum Standards For Licensed Child Care Institutions (1977), p. 5.

Public Welfare Licensing Act, Minn. Stat. § 245.801 (1978).

Minn. Stat. § 241.021, subd. 1, subsection 1 (1978).

rationale: E.2. This rule provides for the availability to the Commissioner of materials relevant to the nature of the Group Foster Home, its program, and administration which will aid in the determination of suitability for licensure; and requires update of materials that document aspects of the GFH which change from year to year.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring Institutions (1977), p. 1.

Virginia Department of Welfare: Minimum Standards For Licensed Child Care Institutions (1977), p. 5.

Public Welfare Licensing Act, Minn. Stat. § 245.801 (1978).

Minn. Stat. § 241.021, subd. 1, subsection 1 (1978).

rationale: E.3. This rule gives notice to the applicant as to when a provisional license will change into a full license.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring Institutions (1977), p. 1.

Virginia Department of Welfare: Minimum Standards For Licensed Child Care Institutions (1977), p. 5.

Public Welfare Licensing Act, Minn. Stat. § 245.801 (1978).

Minn. Stat. § 241.021, subd. 1, subsection 1 (1978).

rationale: F. Conditions of License. This rule ensures that no Group Foster Home can obtain a license and then change any noted conditions of the license. An application for transfer of license, however, is permitted to allow Group Foster Parents to move without having to submit duplications of materials that the Commissioner already has on file.

evidence: Chris Peterson, Witness.

rationale: F.2. This rule prevents the Group Foster Parents from making changes that could disqualify them from operating Group Foster Homes.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring

CORR. 446 LICENSING PROCEDURES

evidence: (cont.) Institutions (1977), p. 2.

Virginia Department of Welfare: Minimum Standards For Licensed Child Care Institutions (1977), p. 5.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F (2)(a) (1971).

rationale: F.3. Limitations must be set to ensure that Group Foster Parents denote sufficient time to each foster youth.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care and Group Family Foster Care, 12 MCAR § 2.001, parts B (4) and K (4), (1977).

rationale: F.4. This rule gives notice to the applicant that there is no fee for licensure.

evidence: Department of Corrections decision.

rationale: F.5. This rule gives notice to the applicant that the Group Foster Home cannot operate without a license.

evidence: Minn. Stat. § 241.021, subd. 1 (1978).

rationale: G. Jurisdictional Licensing Requirements. This rule ensures the health and safety of the residents living in the Group Foster Homes.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6065, p. 13.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F, (1971).

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, parts G (3) and (4), (1969).

rationale: G.1. This rule provides notice to the Group Foster Parents of their responsibility.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6065, p. 13.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F, (1971)..

Minnesota Department of Public Welfare: Standards For Group Homes

CORR. 446 LICENSING PROCEDURES

evidence (cont.): And Licensing Procedures, 12 MCAR § 2.008, parts G (3) and (4), (1969).

rationale: G.2. This rule provides proof to the Commissioner that the Group Foster Homes are in compliance with all fire, health and safety rules.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6065, p. 13.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F, (1971).

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, parts G (3) and (4), (1969).

rationale: G.3. This rule ensures the safety of residents.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6065, p. 13.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F, (1971).

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, parts G (3) and (4), (1969).

rationale: H. Waiver of Specific rule. This rule is to prevent undue hardship and to provide flexibility of the rules.

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part J (1), (1969).

rationale: I. Study of application. This rule provides the Commissioner with an opportunity to evaluate an applicant according to these standards thereby insuring that the Commissioner's decision will be as informed as possible.

evidence: Virginia Department of Welfare: Minimum Standards For Licensed Child Caring Institutions (1977), p. 4.

rationale: J. Notice To The Applicant Of Commissioner's Action. This rule explains to the applicant the procedure by which the applicant will be informed of the Commissioner's decision.

evidence: Virginia Department of Public Welfare: Minimum Standards For Licensed Child Caring Institutions, (1977), p. 4.

rationale: K. Provision, Revocation, Suspension and Denial of License. This

CORR. 446 LICENSING PROCEDURES

rationale: (cont.) rule prevents abuse of the licensing power and provides notice of the conditions under which a license may be made provisional, be revoked, suspended or denied. This rule also ensures that those applicants who are issued licenses have not had a poor operating history.

evidence: Mississippi Department of Public Welfare: Standards For Child Caring Institutions (1977), pp. 1-2.

Diane Ahrens, Witness.

rationale: L. Restriction of the Use of a Group Foster Home. This rule provides notice to the Group Foster Parents of the Commissioner's authority to restrict the use of any Group Foster Home which does not substantially conform to the minimum standards.

evidence: Minn. Stat. § 241.021, subd. 1 (1978).

rationale: M.1&2. Appeal Procedure For Denial, Suspension and Revocation of License. This rule guarantees that applicants are not denied due process when a license is denied, suspended or revoked.

evidence: Public Welfare Legislative Act, Minn. Stat. § 245.801, subds. 4-5 (1978).

rationale: N. When a license has been revoked... This rule provides means of penalizing blatantly poor service and operation.

evidence: Public Welfare Legislative Act, Minn. Stat. § 245.801, subd. 6 (1978).

rationale: O. Failure of the Commissioner to dony or approve an applicant. This rule protects applicants against undue delay in the licensing procedure.

evidence: Public Welfare Legislative Act, Minn. Stat. § 245.801, subd. 3 (1978).

CORR. 450 SEVERABILITY

rationale: This rule advises Sponsoring Agencies and Group Foster Parents that the validity of the remaining rules shall not be jeopardized if one of the proposed rules is found inoperative.

evidence: Minnesota Department of Corrections: Standards For Holding Facilities, Lockups, Jails and Adult Correctional Facilities, 11 MCAR § 2.102, part D (1978).

CORR. 456 GROUP FOSTER PARENTS QUALIFICATIONS

rationale: A. This rule advises Group Foster Parents that since foster youth must live apart from their own families, they are in need of stable and understanding foster families, and need much parenting to cope with their problems.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (1), (1977).

rationale: A.1.a-e. Maturity and Responsibility of Group Foster Parents. This rule ensures protection of youth from unfit parents and provides rehabilitated persons with an opportunity to become Group Foster Parents.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (1) (a) (1), (1977).

Recommendation of Advisory Task Force.

Chris Peterson, Witness.

rationale: B. Age of Applicants. This rule ensures maturity of applicants.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part C (3), (1977).

rationale: C. Physical Handicap of Group Foster Parents. This rule prevents discrimination against physically handicapped applicants.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (3), (1977).

rationale: D. Substitute arrangements for care and supervision. This rule prevents neglect of and ensures continuous care of foster youth.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (5), (1977).

CORR. 460 HEALTH OF PERSONS LIVING IN THE GROUP FOSTER HOMES

rationale: A. Evidence of mantoux test or chest x-ray. This rule ensures that those persons who come in contact with the foster youth do not have tuberculosis.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (6) (a) (1), (1977).

Minnesota State Board of Health, rule MHD § 392, part J (1), (1974).

rationale: B. Health evaluation. This rule ensures that applicants are healthy enough to assume their responsibility as Group Foster Parents.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (6) (d), (1977).

STATEMENT OF NEED AND REASONABLENESS

CORR. 464 TRAINING FOR GROUP FOSTER PARENTS

rationale: A.-A.1. Minimum of 18 hours of annual training. The intent of an ongoing training program is to build on the foster parents' initial interest in providing service and to maximize their ability to provide the highest quality services to children. The aim of this training is to transfer information about foster care and foster children.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, parts D (7) (a,c,d, and f), (1977). For basic foster homes, training requirements are twelve hours, and for group family foster homes an additional six hours are required, resulting in a total of eighteen hours.

rationale: A.2.a-b. First Aid Training. This rule is to ensure that all Group Foster Parents are equipped to assist in medical emergencies.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6148, p. 29.

rationale: B. Leave of Absence. This rule ensures that Group Foster Parents maintain a fresh outlook on parenting and permits them to take necessary vacations without penalty.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (7) (b), (1977).

rationale: C. Substitute Arrangements for Care. This rule prevents neglect of and provides continuous care of the foster youth.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part F (6) (a), (1977).

STATEMENT OF NEED AND REASONABLENESS

CORR. 470 PROGRAM

rationale: A. Orientation. This rule ensures that the resident, at the time of intake, understands what can be expected of the program, and what the program expects of the resident.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6097, p. 19.

rationale: B. Service Plan. This rule ensures that the special needs of each resident are identified and met.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6114, p. 23.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part D (2) (e), (1971).

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part E (3), (1969).

rationale: C. Progress Reports. This rule ensures that the resident is not neglected by requiring a written proof that the service plan is being implemented. In addition, the written reports provide court and Corrections officials with data with which to review the youths' progress.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6116, p. 23.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part J (2) (d), (1977).

rationale: D. Community involvement. This rule ensures that Group Foster Home placement will facilitate the objective of resident reintegration into community life including strengthening of relationships with relatives, friends and employers.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), sections 6124 and 6128, pp. 25-26.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part H (3), (1977).

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part D (2), (1971).

evidence: (cont.) Minnesota Department of Public Welfare: Standards for Group Homes And Licensing Procedures, 12 MCAR § 2.008, parts E (1,4, and 6), (1969).

CORR. 474 SPECIAL PROCEDURES

rationale: A. House Rules. This rule enables a Group Foster Home to have group meetings which instill a feeling of community, reinforce the concepts of community norms and exert authority and influence over residents by means of a positive peer culture.

evidence: Child Welfare League of America: Standards For Group Home Service For Children (1978), pp. 24 and 26, sections 3.4 - 3.10.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part H (3) (a), (1977).

rationale: A.2. Grievance Procedure. This rule ensures that residents have notice of rules, residents' rights and the grievance procedure.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6123, p. 24.

rationale: B. Written Emergency Plans. This rule ensures that the residents are aware of the emergency plans and that the directions are readily available in case of emergencies.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6166, p. 32.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part F (5) (e), (1977).

rationale: C.1-3. Discipline. This rule ensures that the residents are protected against harsh or threatening methods of discipline that could be damaging to them.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6169 and 6170, p. 33.

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part D (3), (1971).

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part D (8), (1977).

rationale: D.1-3. Security Procedures. This rule ensures protection of the community and control over the residents.

CORR. 474 SPECIAL PROCEDURES

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), sections 6182, 6184 and 6186, pp. 36-37.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part F (6) (c), (1977).

rationale: E. Personal Communication. This rule ensures some privacy of residents' personal lives while providing protection for Group Foster Parents and the community.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6130, p. 32.

rationale: E.2. This rule ensures that the residents have adequate telephone service available on the premises while protecting the Group Foster Parents from abusive telephone usage.

evidence: Commission on Accreditation for Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services (1978), section 6132, p. 32.

rationale: F. Personal Possessions. Youths should be allowed to keep their personal possessions in order to enhance the youths' feelings of self worth, dignity and responsibility.

evidence: Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part F (2) (b), (1971).

Minnesota Department of Public Welfare: Standards For Group Homes and Licensing Procedures, 12 MCAR § 2.008, parts G (5) (g and h), (1969).

rationale: F.2. This rule provides protection for the Group Foster Parents and enables them to control the physical premises of their home.

evidence: Advisory Task Force recommendation.

rationale: G. Relative to Public Reports... This rule prevents the exploitation of residents.

evidence: Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part D (2) (h), (1971).

Advisory Task Force recommendation.

CORR. 478 PHYSICAL FACILITY

rationale: A. Building. This rule ensures that the Group Foster Home placement will facilitate the objective of resident reintegration into community life.

evidence: Virginia Department of Public Welfare: Minimum Standards For Licensed Child Caring Institutions, (1977) p. 14.

rationale: A.2.a-d. Bedrooms. This rule ensures that the facility complies with Minnesota State Board of Health Rule MHD § 393 (1974) as required by Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

evidence: Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

Minnesota State Board of Health, rule MHD § 393, part e (1974).

rationale: A.3. Provisions for necessities. This rule ensures that the residents are adequately provided with necessities, guarantees privacy for the residents, and promotes individual self worth.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6075, p. 15.

rationale: A.4.a. Separate Bedrooms. This rule discourages sexual relationships between coed residents and promotes privacy.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6085, p. 16.

rationale: A.4.b. This rule ensures that juvenile offenders are not mixed with adult offenders.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6086, p. 16.

rationale: A.5.a. Counseling space and visiting room. This rule ensures that there is enough space to facilitate group meetings.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6078, p. 15.

rationale: A.5.b. This rule ensures privacy for the resident.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6079 and 6077, p. 15.

CORR. 478 PHYSICAL FACILITY

evidence: (cont.) Pennsylvania Department of Public Welfare: Proposed Regulations on General Child Caring Facilities, Both Community-Based And Facility-Based And Group Home Service, (1978), p. 346.

rationale: A.6.a,b. Bathrooms. This rule ensures that the facility complies with Minnesota State Board of Health, rule MHD § 393, part (i) (1 and 2), (1974), as required by Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

evidence: Minnesota State Board of Health, rule MHD § 393, (i) (1 and 2).

Minn. Stat. § 241.021, subd. 1, subsection 2 (1978).

rationale: A.7. Laundry Facility. This rule ensures that the residents have clean clothes available.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6083, p. 16.

rationale: A.8. Dining Room. This rule permits every foster youth to be treated as a member of the Group Foster Home.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part K (5) (b), (1977).

Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part G (5) (b), (1969).

rationale: B.1. Enfironment. This rule ensures that Group Foster Parents do not over-extend themselves. It also ensures that any other child care service they perform is also licensed by the appropriate state agency.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part B (15), (1977).

rationale: B.2. This rule ensures that all persons living in the Group Foster Home are positive role models.

evidence: Advisory Task Force Group Foster Home Subcommittee recommendation.

rationale: B.3. This rule ensures the continuity of care for foster youths and also ensures that court officials are informed of the whereabouts of the youths.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part B (13), (1977).

CORR. 478 PHYSICAL FACILITY

rationale: B.4. This rule provides notice to Group Foster Parents that court officials have access to their home.

evidence: Minn. Stat. § 241.021, subd. 1 (1978).

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part B (8), (1977).

CORR. 482 HEALTH CARE AND MEDICAL SERVICES

rationale: Implementing arrangements for medical and dental care. This rule ensures that the residents receive adequate medical and dental care when necessary.

evidence: Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part E (4), (1977).

rationale: B. Examination and Treatment of a Communicable Disease. This rule prevents the spread of communicable diseases.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6158, p. 31.

rationale: C. Distribution of Medication. This rule ensures that medication is dispensed to a resident only according to the written orders of a licensed physician.

evidence: Minn. Stat. § 152.11 (1978).

rationale: D. Medical Records. This rule ensures that the resident will have an ongoing medical history which will be available for future references.

evidence: Minnesota Department of Public Welfare: Standards For Group Homes And Licensing Procedures, 12 MCAR § 2.008, part F (4), (1969).

Minnesota Department of Public Welfare: Standards For Child Caring Institutions, 12 MCAR § 2.005, part D (4) (a) (8), (1971).

Minnesota State Board of Health, rule MHD § 397, (1974).

rationale: E. First Aid Equipment. This rule ensures that first aid equipment will be available at all times.

evidence: Commission on Accreditation For Corrections, American Corrections Associations: Manual of Standards For Juvenile Community Residential Services, (1978), section 6146, p. 29.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part E (1) (b), (1977).

Minnesota State Board of Health, rule MHD § 399, part (a), (1974).

CORR. 486 NUTRITION AND FOOD

rationale: A.&B. Nutritional Standards. This rule ensures that the residents are not malnourished.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6136, p. 27.

Minnesota State Board of Health, rules MHD § 55, parts (e) and (F), and MHD § 395, (1974).

STATEMENT OF NEED AND REASONABLENESS

CORR. 490 RECORDS

rationale: A. Medical Records. This rule ensures that the resident will have an ongoing medical history which will be available for future reference.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6195 and 6196, pp. 38-39.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part I (2), (1977).

rationale: A.2. Progress Reports. This rule ensures that the resident is not neglected by requiring written proof that the service plan is being implemented. In addition, the written report provides court officials and Corrections officials with data with which to review the youth's progress.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6195 and 6196, pp. 38-39.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part I (2), (1977).

rationale: A.3. Face Sheet. This rule ensures that the resident is easily identifiable, that data is available for statistical purposes, and that information is easily assessible in case of an emergency.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6195 and 6196, pp. 38-39.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, part I (2), (1977).

rationale: A.4. Any individuals or Agencies requesting resident data. This rule provides protection for residents' privacy.

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), sections 6195 and 6196, pp. 38-39.

rationale: A.5. Case Records. This rule ensures that residents' records are protected and kept on file.

evidence: Minnesota Department of Corrections, staff recommendation.

rationale: B. Personnel. This rule enables the Group Foster Parents to review their files in order to see that they are current and accurate.

CORR. 490 RECORDS

evidence: Commission on Accreditation For Corrections, American Corrections Association: Manual of Standards For Juvenile Community Residential Services, (1978), section 6051, p. 10.

Minnesota Department of Public Welfare: Standards For Family Foster Care And Group Family Foster Care, 12 MCAR § 2.001, parts I (1 and 3), (1977).

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

Proposed Rules Establishing Minimum Standards for Adult Halfway Houses and Group Foster Homes.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:00 a.m. on Thursday, July 19, 1979 in Room 116A of the State Administration Building, St. Paul, Minnesota.

James Bradford, Assistant Attorney General, appeared as counsel on behalf of the Department of Corrections. Tai Shigaki, Director of Staff Development, testified in support of the proposed rules on behalf of the Department. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

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

Thereafter, the Department shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. 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. sec. 15.0412 within ten calendar days. The Department will 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 records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On May 31, 1979, the Department filed the following documents with the Chief Hearing Examiner:

   (a) A copy of the proposed rules.

   (b) The Order for Hearing proposed to be issued.

   (c) The Notice of Hearing proposed to be issued.

   (d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On June 18, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 2213.

3. On JUne 14, 1979, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On June 25, 1979, the Department filed the following documents:

(a) The Order for Hearing and authorizing resolution.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 3 State Register 1997 (April 30, 1979)
(h) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

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

5. The record remained open through August 8, 1979, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 20 calendar days following the hearing.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. sec. 241.021, subd. 1 (1978).

7. Many clerical amendments were made to the rules as published in the State Register. At hearing, the Department submitted a document entitled "Notice of Published Errors and Amendment of Proposed Rules" which contains minor amendments to the rules as published. The Department provided a loose-leaf print-out of the proposed rules at the hearing which incorporated the amendments stated above and which included an Errata sheet to the print-out. Also provided was a document entitled "Addendum to Notice of Published Errors and amendment of Proposed Rules" which contains additional amendments to both the State Register edition and the print-out of the proposed rules. Most of the amendments to the proposed rules are merely clerical and will not be addressed specifically in this Report. However, this Report will address amendments which involve substantive changes in the rules.

8. Proposed 11 MCAR sec. 2.401, Introduction, Adult Halfway Houses, outlines the statutory authority for the rules; the use of a citizens advisory task force in their development; and the purpose of the rules. (Hereinafter, the rules will be referred to as CORR 401, for example, rather than listing the full MCAR citation).

9. Proposed CORR 402 sets forth definitions of terms used in the Adult Halfway House rules for the purpose of uniform understanding.

(a) Norbert J. Gernes, Director of Portland House, proposed to amend CORR 402 K. as follows:

K. Change: "Governing boards/sponsoring agency" is the body which formulates the policies and procedures governing a community corrections facility, this body being composed, at the minimum, of the offices of president, secretary, and treasurer. ~~and the administrator of the program~~. In non-

profit corporations the administrator of the program shall not be a member of the board of directors.

Rationale: To clarify the relationship between the administrator of the program and the board of directors. The administrator of the program should not be a member of the governing board in non-profit corporations.

The Department concurred in this amendment. As amended above, the Examiner finds that proposed CORR 402 is both needed and reasonable.

10. Proposed CORR 403 sets forth the procedures by which an Adult Halfway House obtains a license from the Department; renewal requirements; provisional license requirements; license disciplinary actions; rule waiver criteria; and an appeal procedure for applicants.

(a) Tamsen Aichinger, on behalf of the St. Paul City Planning Department, proposed that CORR 403 be amended as follows:

11 MCAR sec. 2.403 Procedures for Licensing
C. Procedures. Original application for license.
2. Materials to be filed with Adult Halfway House license applications.
q. Evidence of compliance with local zoning ordinances.

Aichinger contends that compliance with local zoning provisions should be a mandatory element of license approval. The Department concurred with this amendment.

(b) Mr. Gernes suggested that CORR 403 C.2.k. be amended by adding the words, for the facility administrator, for the purpose of clarity. The Department concurred in that amendment.

(c) Alan Yelsey proposed that CORR 403 C.2.f., which states that an application must contain "an outline of the CCF's program" be more clearly defined. The Department contends that specific items of the program should not be spelled out in rule form.

(d) The Department proposed to amend CORR 403 by adding paragraph B. which states the statutory authority to inspect facilities, and paragraph H. which states the authority of the Commissioner to restrict the use of facilities not in compliance with rule standards.

(e) The Examiner finds that proposed CORR 403, as amended in paragraphs a., b. and d. above, is both needed and reasonable with the following exceptions: (1) Paragraph M. allows the Commissioner broad discretion, with no stated criteria, to deny relicensure for from one to five years for noncomplying facilities. The Department relies on the authority given to the Department of Public Welfare in Minn. Stat. sec. 245.801, subd. 6, to support this provision. However, no such authority is given to the Commissioner of Corrections. Absent criteria, paragraph M. is not legal.

(2) Also, the Examiner points out that some of the language contained in paragraph L.1. and L.2. is not necessary as it repeats rules of the Office of Hearing Examiners or language contained in Chapter 15. The Commissioner has no statutory authority to give Hearing Examiners subpoena power. All that need be said is that ". . . the Commissioner shall give . . . opportunity for a prompt hearing pursuant to Chapter 15." As stated

in the proposed rule, "State Board of Hearing Examiners" is incorrect. It is State Office of Hearing Examiners.

(3) Paragraph E. requires a standard of "substantial compliance" with the rules before a full license will be issued. The criteria of "substantial compliance" is too vague to be reasonable. It allows far too much discretion on the part of the Department to determine how much compliance is "substantial" compliance. A waiver provision is already inserted in this rule in paragraph I. CORR 403 must mandate specific requirements to be legal i.e., that facilities must comply with the rules. Paragraph H. also uses the terms "substantially conform"; however, this language is taken from the statute itself.

11. Proposed CORR 404. states that the validity of the remaining rules shall not be jeopardized if one of them is found to be invalid. This is a new paragraph which was added after publication. The State Register edition of the rules would be amended by making CORR 404 and 408 a combined CORR 408.

12. Proposed CORR 408 details the organizational structure and administrative policies and procedures for Adult Halfway Houses.

(a) The Department has proposed to delete paragraph F. because it contends that the requirement contained therein goes beyond the Department's statutory authority.

(b) Mr. Gernes suggested that CORR 408 C. should be amended as follows to increase the effectiveness of the governing board:

> The governing board of the Community Corrections Facility shall hold meetings at least ~~annually.~~ quarterly with the administrator . . .

The Department concurred in this proposal.

(c) As amended in paragraphs a. and b. above, the Exmainer finds that proposed CORR 408 is both needed and reasonable.

13. Proposed CORR 412 sets forth certain fiscal management requirements for Adult Halfway Houses.

(a) Mr. Gernes proposed that CORR 412 G. be amended as follows:

> The Community Corrections Facility shall have a procedure to provide insurance for itself, which shall include coverage for the physical plant, equipment, and personal ~~and property~~ injury to employees, residents and third parties.

He contends that:

> Community Corrections Facilities should not be required to provide insurance on the personal property of residents or employees, since this is an intolerable burden. Insurance rates of this kind for a facility working with felons are astronomical.

The Department concurred in this amendment. As amended, the Examiner finds proposed CORR 412 to be both needed and reasonable.

14. Proposed CORR 416 specifies the personnel policies, qualifications and requirements for Adult Halfway Houses.

(a) Mr. Gernes proposed that the staff to resident ratio be changed from one to six to one to eight because the lesser ratio is more restrictive than is necessary for good treatment practice. He also suggested that CORR 416 I.3. be clarified to read as follows:

The treatment staff shall have work, education, or volunteer experience in corrections or related fields, and shall be selected on the basis of ability to perform assigned tasks.

The Department concurred in both of these proposed amendments.

(b) Harry Kramer and Alan Yelsey both commented that paragraph D. should require the immediate availability of staff rather than just an "on call" basis. The Department stated that the rule as proposed "has been widely discussed within the Advisory Task Force and is consistent with operator's experience and management." Mr. Kramer also commented that a further clarification is required regarding the equivalency of work experience and education.

(c) The Examiner finds that proposed CORR 416, as amended in paragraph (a) above, is both needed and reasonable.

15. Proposed CORR 418 sets forth the admission policy requirements for residents of Adult Halfway Houses. The Examiner finds that the proposed rule is both needed and reasonable.

16. Proposed CORR 420 details requirements for the treatment plan and program for residents of Adult Halfway Houses.

(a) Mr. Gernes proposed that paragraph D.2. be clarified to read, Staff shall not enter into business arrangements or financial transactions with residents. The Department concurred in this proposal. As amended, the Examiner finds that proposed CORR 420 is both needed and reasonable.

17. Proposed CORR 424 states the nutritional and meal requirements for facilities. As proposed, the rule adopts the standards of the Food and Nutrition Board of the National Research Council. The Department has amended the rule, however, to adopt the provisions of Minn. Rule MHD 394(c) regarding nutritional requirements. As amended, the Examiner finds that the rule is both needed and reasonable. The adopted provisions must be put into the body of the proposed rule unless incorporation by reference is appropriate pursuant to Minn. Stat. sec. 15.0412, subd. 4.

18. Proposed CORR 428 details the various types of disciplinary measures which may and may not be used in Adult Halfway Houses and provides for policies regarding security procedures and the personal possessions of residents.

(a) Kathy Gilbertson, clinical systems coordinator with the Metropolitan Council, commented that the rules should address the use of a "BAN" by facilities.

(b) The Examiner finds that proposed CORR 428 is both needed and reasonable.

19. Proposed CORR 432 sets forth requirements for the physical facility. Compliance with all applicable Codes is mandated.

(a) William McCausland commented that the second sentence in paragraph D.3.b. should be clarified by adding the language "per resident" at the end. The Department concurred in that amendment. As amended, the Examiner finds that the proposed rule is both needed and reasonable.

20. Proposed CORR 436 describes the types of health care and medical services which must be available to residents of Adult Halfway Houses.

(a) Mr. Gernes proposed that paragraph B. be amended by replacing the word "arranged" with determined for the sake of clarity. The Department concurred in this amendment.

(b) The Department has proposed to delete paragraph J.

(c) As amended in paragraphs (a) and (b) above, the Examiner finds that proposed CORR 436 is both needed and reasonable.

21. Proposed CORR 440 sets out the recordkeeping requirements concerning both residents and facility staff.

(a) Rogers Adams, assistant to the editor of the Minneapolis Star, submitted comments which suggested that the data release sections of CORR 440 be amended to more closely comply with statutory data privacy requirements. The Department concurred with those concerns and proposed to amend CORR 440 A. as follows:

> 3. All dissemination on data on residents will be in accord with the Minnesota Government Data Practices Act. All information is public, unless otherwise classified by state statute, federal law, or emergency or temporary classification.
>
> 4. The content of the resident's record and data collected by the CCF shall be shared with individuals or agencies directly involved in the resident's treatment plan. When such information is provided, residents shall be informed. All dissemination of residents' records and information shall be governed by Minn. Stat. sec. 15.162, subds. 3, 5 and 5a, and any other applicable state or federal law.

(b) The Department also proposed to clarify paragraph A.7. by amending it to read: Residents shall have access to their files as permitted by law.

(c) The Examiner finds that proposed CORR 440, as amended above in paragraphs a. and b., is both needed and reasonable.

22. Proposed CORR 444, Introduction, Group Foster Homes, outlines the statutory authority for the rules; the use of a citizens advisory task force in their development; the purpose of the rules; and responsibilities of Group Foster Parents. The Department has proposed to amend paragraph D., as published, by deleting everything after the first sentence which refers to Operating Guidelines. As amended, the Examiner finds that proposed CORR 444 is both needed and reasonable.

23. Proposed CORR 445 sets forth definitions for terms used in the Group Foster Home rules for the purpose of uniform understanding.

(a) Diane Ahrens, Ramsey County Commissioner, commented as follows in regard to the limitation of eight youths per home set out in Corr 445 G.:

> I speak in support of a limitation of six correctional placements in any group foster home situation and in opposition to the proposed rule of eight. Correctional placements fall more into the category of difficulty of care welfare placements and in our county these more difficult placements are limited to three per family. It seems to me that except in the most unusual circumstances, which could under the proposal be covered by a waiver, a placement of six correctional youngsters is as much as we should expect of any family. A limitation of six would also eliminate the need for a special use permit in the city of St. Paul. In this city, because of our zoning ordinances, any family licensed to accept more than six individuals would require a special use permit. The political reality of

this means that such group homes could effectively be eliminated in certain areas of the city when a special use permit is applied for. I do not believe that it is to the benefit of either the group foster home program or the group foster home family to extend the number of placements beyond six.

The Department stated at hearing that, "A group of eight children is optimum because it is small enough to allow for individualization and large enough to remain a group even if a member is absent." It cites the book, Standards for Group Home Service for Children, Child Welfare League of America (1978), as authority for its position. The book states that a "group of six to eight children is optimum. . ." After hearing, the Department commented that group home size ". . . is a matter we are requesting a recommendation from the Hearing Examiner's Office."

The question of appropriate group home size is a policy decision which has been delegated by the Legislature to the Department of Corrections for resolution. Department personnel, not this Examiner, have the training and expertise to make subjective policy decisions regarding correction facility regulation. This Examiner must only conclude that those decisions result in a rule which is needed, reasonable and within statutory authority. The Examiner concludes that proposed CORR 445 is both needed and reasonable.

24. Proposed CORR 446 sets forth the procedures by which a Group Foster Home obtains a license; renewal requirements; provisional license requirements; licensure conditions; rule waiver criteria (the word "regulation" as used in the proposed rule is inappropriate); disciplinary actions against licenses; and appeal procedures.

(a) The Department has proposed to amend CORR 446, as published, by adding a paragraph which cites the statutory authority to inspect facilities; a paragraph which mandates full licensure if there is "substantial compliance" with the rules; and a citation to the Commissioner's authority to restrict usage of Group Foster Homes. The Department also concurred in the amendment proposed by Tamsen Aichinger (the same amendment was accepted for CORR 403 - see Finding 10.a.) to add the sentence, Evidence of compliance with local zoning ordinances, to CORR 446 C.

(b) Much of the language contained in Corr 446 is the same as that in CORR 403. Consequently, the same conclusions regarding unreasonableness apply to paragraphs: E. - substantial compliance; M. - appeal procedures and subpoena power; and N. - Commissioner discretion. See Finding 10.e. With these stated exceptions, the Examiner finds that proposed CORR 446, as amended above in paragraph a., is both needed and reasonable.

25. The Department has proposed to add a new section, CORR 450, which deals with the question of severability of the rule as was done in the Adult Halfway House Rules. See Finding 11.

26. Proposed CORR 456 sets forth minimum qualifications for Group Foster Home parents. The Examiner finds that the proposed rule is both needed and reasonable with the following exception: Paragraph A.1.a. allows the Commissioner absolute discretion to not issue or renew a facility license for between five and ten years if any person in the household has committed specified acts. This section must list criteria to be considered by the Commissioner or set a fixed time limit. As written, the discretion allowed is illegal.

27. Proposed CORR 460 mandates basic health requirements for persons living in Group Foster Homes.

28. Proposed CORR 464 sets forth the training which is required for Group Foster Parents and allows for leaves of absence and vacations when suitable arrangements are made.

29. Proposed CORR 470 describes the procedures for implementation of the facility program as it relates to residents.

30. Proposed CORR 474 sets out facility living policies, disciplinary requirements and the right of residents to possess and acquire personal property. The Department has proposed to add a new paragraph to CORR 474 which deals with methods of resident discipline. It reads as follows:

H.G Room Restriction, Facility Restriction and Privilege Suspension.

1.a Room restriction shall not exceed eight hours. The resident shall be observed by a group foster parent or staff person at least hourly.

2.b Prior to room restriction, facility restriction or privilege suspension, the resident shall have the reasons for the restriction or suspension explained to him/her, and have an opportunity to explain the behavior leading to the restriction or suspension.

3.c. All instances of room restriction, privilege suspension and facility restriction shall be logged, dated and signed by the Group Foster Parent(s) implementing the disciplinary procedure; the log shall be reviewed by the Supervising Agent or Coordinator.

As amended, the Examiner finds that proposed CORR 474 is both needed and reasonable.

31. Proposed CORR 478 sets forth requirements for the physical facility.

32. Proposed CORR 482 requires that certain health care and medical services be available to facility residents. The department proposed to delete paragraphs F. and G. from the rule. As amended, the Examiner finds that proposed CORR 482 is both needed and reasonable.

33. Proposed CORR 486 sets forth nutrition and food requirements for Group Foster Homes. As proposed, the rule adopts the standards of the Food and Nutrition Board of the National Research Council. The Department has amended the rule, however, to adopt the provisions of Minn. Rule MHD 394(c) regarding nutritional requirements. As amended, the Examiner finds that the rule is both needed and reasonable. Reference can be made to those requirements as set out in CORR 424. See Finding 17.

34. Proposed CORR 490 outlines the recordkeeping procedures which must be followed in Group Foster Homes.

(a) Rodgers Adams commented that a data release section be added to the rule which would comply with statutory data privacy requirements. As proposed, the rule merely states that requests for information on residents be directed to the Supervising Agent. There is no provision for dissemination by the facility itself.

(b) The Examiner finds that proposed CORR 490 is both needed and reasonable.

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

C O N C L U S I O N S

1. The Department of Corrections gave due, timely and adequate legal notice of the hearing. All substantive and procedural requirements of law or rule have been met.

2. Pursuant to Minn. Stat. sec. 15.052, subd. 3 (1978), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action; (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts".

3. The Department of Corrections has demonstrated the need for and reasonableness of the proposed rules with the exceptions noted in Findings 10.e., 24.b. and 26.

4. The Department has statutory authority to promulgate the proposed rules with the exception noted in Finding 10.e. regarding the granting of subpoena power which is contained in CORR 403 and CORR 446.

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

R E C O M M E N D A T I O N

That the Department of Corrections adopt the proposed rules, as amended, and recommended to be amended herein.

Dated this 29 day of August, 1979.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

RECEIVED
OCT 5 1979
OFFICE OF HEARING
EXAMINERS

AMENDMENTS AND FINDINGS OF FACT TO THE PROPOSED ADOPTED RULE

9/11/79

CHAPTER I Adult Halfway Houses Corrections 402 Definitions

#K. This definition has been amended consistent with the Hearing Examiners findings #9 and testimony at the public hearing.

#V. We have added this definition for "substantially conform" or "substantial compliance" to establish criteria and to clarify the terms as used in these rules. This addition is necessary and appropriate based on the Hearing Examiner's findings #10, e., 10. 3.

#W. "Corporal punishment" We have added this definition to clarify the term as used in these rules. This definition was added at the public hearing.

Corr. 403. Procedures for Licensing

#C.2.k. Was amended in a manner consistent with the Hearing Examiner's findings (#10. e.) and testimony at the public hearing.

#C.2.q. This was added to reflect consistency with testimony at the public hearing and the Hearing Examiner's findings #10. e.

#H. We have added the statement "or where specific conditions ....., safety of residents or staff" to set forth the sanctions legally available to the Commissioner and the statutory basis for non-conformance with rules, unsafe, unsanitary or illegal conditions.

#L. 1. 2. We have deleted all materials that repeat the rules of the Office of the Hearing Examiners and the language contained in Chapter 15. We have amended this section with language consistent with the recommendation of the Hearing Examiner. See finding #10. 2.

#M. In this item we have 1) deleted all references to the Commissioner's discretionary power and 2) established criteria for relicensing by setting a time period. See Hearing Examiner's finding 10. e.

Corr. 408. Organization and Administration of Adult Halfway Houses

#C. This was added to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding #12. C.

#F. By deleting this item, the items following E. have been relettered, F., G., H., I., J., K., L.

Corr. 412. Fiscal Management of Adult Halfway Houses

#G. This was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding. #13. a.

Corr. 416. Personnel

#E. This was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding. #14. C.

#I. 3. This was amended to reflect consistency with testimony at the public hearing and the Hearing Examiner's finding. #14. C.

CHAPTER I, Cont.

Corr. 420. Program

#D. 2. renumbered D. 5. Reflects consistency with testimony at the public hearing and the Hearing Examiner's finding #16. a.

Corr. 424. Nutrition and Food

#A. We have amended the rule to adapt provisions of Minnesota Rule MHD 394 C.c.) regarding nutritional requirements. See Hearing Examiner's finding #17.

With this amendment we have relettered the section:
B. Dietary Allowances
C. Provision for Food Service.
C. Provision for Three Meals a Day.

Corr. 432. Physical Facility

#D. 3. b. We have amended this rule to reflect testimony at the public hearing and the Hearing Examiner's finding #19 a.

Corr. 436. Health Care and Medical Services

#B. We have amended the rule to reflect testimony at the public hearing and the Hearing Examiner's finding #20. c.

Corr. 440. Records and Evaulation

#A. We have added section 3 to reflect Mr. Rogers Adams' recommendations and the Hearing Examiner's finding #21 C.

This addition has been numbered 3. The following sections have been renumbered 4., 5., 6., 7., 8.

#4. We have amended this rule following the recommendation by Assistant Attorney General James Bradford and by the Hearing Examiner's finding #21. C.

#8. Amended to clarify the rule and made consistent with the Hearing Examiner's finding #21. C.

9/10/79
JS/bs

CHAPTER II Group Foster Homes

Corr. 445. Definitions

#S. We have added this definition for "substantially conform or substantial compliance" to establish criteria and to clarify the terms as used in these rules. This addition is necessary and appropriate based on Hearing Examiner's finding #24 b.

Corr. 446 Procedures for Licensing

#C. h. and D. 2. d. has been rewritten to clarify that written documentation is evident, that all fire safety, health and zoning ordinances are met and is consistent with the finding of the Hearing Examiners #24. a.

#H. We have replaced the word "regulation" with the word "rule" following the Hearing Examiner's finding #24.

#E. See Corr. 445 Definitions. "Substantial compliance" to be consistent with Hearing Examiner's finding #24. b.

#F. 6. We have added this section to clarify the fact that the agency will license for specific number of youth. See Hearing Examiner's finding #H. 23. a.

#L. We have added the statement "or where conditions .....safety of residents or staff" to set forth the sanction available to the Commissioner and the statutory basis for non-conformance with rules, unsafe, unsanitary or illegal conditions.

#M. 1. 2. We have deleted all materials that repeat the rules of the Office of the Hearing Examiners and the language of Chapter 15. We have amended this section with language consistent with the recommendations of the Hearing Examiner's finding #24. b.

#N. With this item, we have deleted all references to the Commissioner's discretionary power and established criteria by setting a specific time period. #24. B.

Corr. 456 Group Foster Parent Qualifications

#A. 1. a. We have amended this rule by establishing a specific criteria (five years) as to when the Commissioner can review a facility license, if any person in the household has committed specific acts. This amendment reflects the Hearing Examiner's finding #26.

Corr. 474 Special Procedures

We have added this section in an effort to clarify the limitations to which group home foster parents can discipline residents. See Hearing Examiner's finding #30.

We have lettered this section D and relettered the following sections E., F., G., H.

Corr. 478. Physical Facility

A. 2. b. We have amended this rule to reflect testimony at the public hearing and the Hearing Examiner's findings #19.

Corr. 482. Health Care and Medical Services

#A. We have amended this section so as to clarify responsibility for arranging medical and dental care for residents.

Corr. 486. Nutrition and Food

We have amended this rule to include the provisions of Minnesota Rule MHD 394 (c) regarding nutritional requirements. See Hearing Examiner's findings #17.

We have relettered this section:

B. Dietary allowances.
C. Number of meals to be served per day.

Corr. 490. Records

#A. We have amended this section so as to clarify who shall maintain residents' records.

#A. 3. We have amended this section to clarify what records the Group Foster Parents are required to maintain.

9/10/79
JS/bs

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

RECEIVED
OCT 5 1979
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING MINIMUM STANDARDS FOR ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.

ORDER ADOPTING RULES

The above entitled matter came on the hearing before the Hearing Examiner, Peter Erickson, Office of Hearing Examiners, State of Minnesota on the 19th day of July, 1979 at 9:00 A.M. (in the State Administration Building, Room 116A, St. Paul, Minnesota), after proper notice required by M.S. 1978 Sec. 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minimum Standards for Adult Halfway Houses and Group Foster Homes are adopted this 3rd day of October, 1979, pursuant to authority vested in me by Minnesota Statutes Section 241.021, Subd. 1, (1978).

Commissioner of Corrections

Jack G. Young

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING MINIMUM STANDARDS FOR ADULT HALFWAY HOUSES AND GROUP FOSTER HOMES.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on July 19, 1979, before Peter C. Erickson, 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 the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Corrections on August 29, 1979; and

WHEREAS, the Department of Corrections has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Corrections has submitted said rules 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 rules are not substantially different from those proposed at the public hearing and that the Department of Corrections has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Corrections has the responsibility of submitting the complete hearing record and the rules 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 9th day
of October, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Assistant Attorney General, James N. Bradford, do hereby declare that I have examined the proposed rules and 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.

James N. Bradford
Assistant Attorney General
Minnesota Department of Corrections

Dated: OCT. 16 1979