

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

June 17, 1983

Mr. Larry D. Starns
Special Assistant Attorney General
Administration/Finance Division
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing The Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the issuance of Fines to Supervised Living Facilities.

Dear Mr. Starns:

I am enclosing a copy of the Second Amendment to The Commissioner's Findings of Fact, Conclusions and Order Adopting Rules, dated and signed on June 15, 1983 for the above-entitled rules. That Amendment corrects the incorrect citation to the Administrative Procedures Act which was contained in 7 MCAR §1.044 Y.12. Specifically, the amendment deletes the reference to Minn. Stat. §15.0418-15.0426 and substitutes the correct citation, Minn. Stat. §14.57 to 14.70.

I discussed this change with the Office of Administrative Hearings on June 17, 1983 and was informed that an additional order from the Chief Hearing Examiner would not be required.

Thank you for your assistance in this matter.

Sincerely,

H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: 623-5448

HMT:pk
Enclosure
cc: John Breviu, Special Assistant Attorney General

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ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Health

Office Memorandum

TO : Larry Starns
Special Assistant
Attorney General

DATE: June 9, 1983

FROM : Richard A. Wexler
Assistant Attorney General

PHONE: 341-7272

SUBJECT: Certain Health Care Facility and HMO Rules of the Department of Health

In accordance with Minn. Stat. § 14.16 and 1 MCAR § 1.202, the following documents are submitted for review:

1. Three copies of the Rule as Adopted (the Revisor's Office will submit the original bearing the Revisor's Certificate);

2. Two copies of the Commissioner's Findings of Fact, Conclusions, and Order Adopting the Rules dated June 6, 1983;

3. Two copies of the Amendment to the Commissioner's Findings of Fact, Conclusions, and Order Adopting Rules;

4. The complete hearing record, including all documents submitted to the hearing examiner;

5. Hearing Examiner's Report;

6. Three Orders of the Chief Hearing Examiner; one dated January 3, 1983, one dated June 8, 1983, and one dated June 9, 1983;

7. Certificate of Compliance with Rulemaking Procedures; and

8. Affidavit of Mailing Notice of Submission to the Attorney General and Accompanying Notice.

If there are any questions, please give me a call. Thank you.

RAW:sil

Enclosures

Our File No. [illegible]

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 6-9.
DATE FOR REVIEW 6-20
DATE DUE 6-29

Adopted w/a hearing ✓
Adopted w/o hearing
Temporary rule

Approved ____ Disapproved ____ Returned to Agency ____

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State ____ Revisor approved ____ disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 6.6.83 Date combined with F&F
Amended Order 6.9.83

✓ Notice of Intent to Solicit Outside Opinion SR. 11.8.76

✓ Order for rulemaking
10.28.82 date of Hearing

N/A Certificate of Board's Authorizing Resolution

Notice of rulemaking
____ Sufficiency

Affidavit of Mailing Notice of rulemaking ~~Delivery~~
9.16 and 17 82 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

✓ Publication in State Register
9.27.82 At least 30/~~20~~ days prior to hearing/~~adoption~~

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
1.3.83 Approving H.E.'s Report
6.9.83 Approving agency action
Disapproving Agency Action 6.8.83

✓ Agency's Findings of Fact combined with Orders Adopting

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness
+ supplement (combined w/ amendmt. to rules as proposed)

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General (not in suggested format but appears adequate)

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Sister Mary Madonna Ashton, Commissioner DATE: June 20, 1983

Attn: RICHARD A. WEXLER
Assistant Attorney General

FROM : LARRY D. STARNS LDS
Special Assistant
Attorney General

PHONE: 297-3497

SUBJECT: In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the dual Option Provisions of the Health Main-***

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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

Encs.
LDS/las
cc: Ms. Kathy Burek
Mr. Duane Harves

***tenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

Department of Health
Health Systems Division

Adopted Rules Relating to the Keeping of Pet Animals in Health Care Facilities; Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; the Operation and Licensing of Nursing Homes and Boarding Care Homes; the Dual Option Provisions of the Health Maintenance Organization Rules; and the Issuance of Fines to Supervised Living Facilities
Rules as Adopted

7 MCAR S 1.042 Pet animals in health care facilities.

A. Definition. As used in 7 MCAR S 1.042, "health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or Minnesota Statutes, sections 144A.01 to 144A.17.

B. Written policy.

1. Every health care facility shall establish a written policy specifying whether or not pet animals ~~can be kept~~ will be allowed on the facility's premises.

2. If pet animals are allowed ~~to be kept~~ on the premises, the policy must~~:~~

~~a.~~ specify whether or not individual patients or residents will be permitted to keep pets~~;~~ ~~and~~

~~b. specify the restrictions established by the health care facility regarding the keeping of pet animals.~~

3. This policy must be developed only after consultation with facility staff and with patients or residents, as appropriate.

C. Conditions. If pet animals other than fish are allowed ~~to be kept within the facility~~ on the premises, the following requirements must be met:

1. ~~A~~ Written ~~policy~~ policies and procedures must be developed and implemented which ~~specifies~~ specify the ~~types of~~ conditions for allowing pet animals ~~that are allowed to be kept~~

~~within-the-health-care-facility~~ on the premises.

2. ~~The policy-required-by-1.-shall-be-developed-in consultation-with-a-veterinarian-and-a-physician-to-assure-that pets-which,-in-their-opinion,-present-a-higher-risk-of transmitting-diseases-to-human-beings-are-not-allowed-to-be-kept within-the-facility.~~ policies and procedures must:

a. describe the types of pet animals allowed on the facility's premises. This policy must be developed in consultation with a veterinarian and a physician.

b. describe the procedures for maintaining and monitoring the health and behavior of animals kept on the facility's premises. These procedures must be in accordance with a veterinarian's recommendations. A copy of these recommendations must be maintained in the facility; and

c. identify those areas in the facility, in addition to those areas described in 6., where pet animals shall not be permitted.

3. ~~All-pet-animals-must-be-in-good-health~~ Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets within or on the premises of the facility.

4. The health care facility shall ensure that ~~pets-are examined-and-receive-any-necessary-immunizations-or-treatments in-accordance-with-a-veterinarian's-recommendations~~ no pet jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents, or staff.

5. ~~A-copy-of-the-veterinarian's-recommendations-as-well as-records-of-all-examinations,-treatments,-and-immunizations shall-be-retained-in-the-health-care-facility~~ A facility employee shall be designated, in writing, as being responsible for monitoring or providing the care to all pet animals and for ensuring the cleanliness and maintenance of facilities used to house pets. This rule does not preclude residents, patients, or other individuals from providing care to pet animals.

6. ~~Regardless-of-the-ownership-of-any-pet,-the-health care-facility-shall-assume-overall-responsibility-for-any-pets~~

~~kept within or on the premises of the facility~~ Except for guide dogs accompanying a blind or deaf individual and except in supervised living facilities with a licensed bed capacity of 15 beds or less, pet animals shall not be permitted in kitchen areas, in medication storage and administration areas or in clean or sterile supply storage areas.

~~7. The health care facility shall ensure that no pet creates a nuisance or otherwise jeopardizes the health, safety, comfort, treatment, or well being of the patients, residents, or staff.~~

~~8. A facility employee shall be designated as being responsible for the care of all pet animals and for ensuring the cleanliness and maintenance of cages, tanks, and other areas used to house pets.~~

~~9. Except for guide dogs accompanying a blind or deaf individual, pets shall not be permitted in areas where food is prepared, served, or stored; in dishwashing areas; dish storage areas; in medication storage areas; in clean or sterile supply storage areas; in nurses' stations; or in any other areas where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety, and well being of patients or residents.~~

~~7 MCAR S 1.043 Preventing abuse and neglect of vulnerable adults in facilities licensed or certified by the Department of Health.~~

~~A. Definition. As used in 7 MCAR S 1.043, "facility" has the meaning given it in Minnesota Statutes, section 626.557, subdivision 2, clause (a).~~

~~B. General requirement. A facility shall comply with Minnesota Statutes, section 626.557.~~

~~C. Facility abuse prevention plan.~~

~~1. Every facility which admits vulnerable adults on an inpatient basis shall develop and implement a written plan to prevent abuse in the facility. The plan must be designed to identify and remedy conditions in the population, environment, and physical plant that make patients or residents susceptible to abuse.~~

2.--The-plan-must-meet-the-following-requirements:

a.--It-must-be-developed-by-an-interdisciplinary committee-selected-by-the-administrator-of-the-facility.

b.--It-must-be-based-on-a-written-assessment-of-the population,-environment,-and-physical-plant.--The-assessment must-address-areas-such-as-the-following:--the-inability-of patients-or-residents-to-act-for-themselves-because-of-physical, mental,-or-emotional-impairments;-the-possibility-that-patients or-residents-will-injure-themselves-or-others-because-of-their physical,-mental,-or-emotional-conditions;-admission-policies and-continued-stay-policies;-visitation-policies-and-visitor restrictions;-the-qualifications-and-training-of-staff-to-meet identified-patient-and-resident-needs;-the-adequacy-of-programs or-services-provided-in-the-facility;-the-orientation-and ongoing-educational-programs-offered-to-employees;-patient's-and resident's-room-assignments;-the-physical-conditions-of-the facility-such-as-lighting-levels,-furniture-placement-and-decor, and-the-location-and-surrounding-environs-of-the-facility.

c.--It-must-include-a-written-plan-to-correct-or alleviate-the-conditions-identified-by-the-assessment-that-make patients-and-residents-susceptible-to-abuse.

d.--Its-plan-to-correct-the-identified-conditions-must specify-the-action-to-be-taken-and-set-a-schedule-for-completing the-corrections.

e.--It-must-be-reviewed-at-least-annually-by-an interdisciplinary-committee-and-revised-if-necessary.--The-date of-each-review-must-be-recorded-on-the-plan.

D.--Individual-abuse-prevention-plan.

1.--Every-facility-which-admits-vulnerable-adults-on-an inpatient-basis-shall-set-written-policies-and-procedures governing-the-development-of-written-individual-abuse-prevention plans-in-accordance-with-Minnesota-Statutes,-section-626.557, subdivision-14,-clause-(b).

2.--The-policies-and-procedures-must-meet-the-following requirements:

a.--They-must-establish-the-mechanism-for-developing

the individual abuse prevention plans.

b. They must require that an interdisciplinary team conduct for each patient or resident an initial individual assessment that addresses the individual's susceptibility to abuse and the measures to be taken to minimize the risk of abuse to that resident.

c. They must require that the plan is developed as part of the initial plan of care for the patient or resident.

d. They must require at least an annual review of the plan as long as the patient or resident stays in the facility.

e. They must require that the individual's plan be revised whenever necessary.

3. The development, review, and revision of the individual abuse plans may be part of a patient's and resident's care plan.

E. Internal reporting system.

1. The facility shall set up a mechanism to ensure that all suspected cases of abuse or neglect are reported to an individual mandated to report under Minnesota Statutes, section 626.557 and are promptly investigated by facility staff.

2. The facility shall designate the person responsible for reviewing and investigating all suspected cases of abuse or neglect. However, if the person responsible for the review and investigation is suspected of committing abuse or neglect, the facility shall authorize another to conduct the review and investigation.

3. The facility shall designate the person responsible for reporting all cases of abuse or neglect to the appropriate authority in accordance with Minnesota Statutes, section 626.557.

4. The facility shall keep written records of reviews and investigations of suspected cases of abuse or neglect. These records must include a summary of the findings, persons involved, persons interviewed or notified, conclusions, and actions taken. A copy of the completed record shall be forwarded to the Office of Health Facility Complaints of the Department of Health.

~~5.--When a patient or resident is admitted, the facility shall explain its internal reporting mechanism to the individual or to the people legally responsible for the patient or resident. It shall also inform these people that anyone may report suspected cases of abuse and neglect directly to outside agencies.~~

~~F.--Notification.--The facility shall inform its staff of the mandatory reporting requirements and of the responsibilities imposed on the facility staff by Minnesota Statutes, section 626.557. It shall also inform its staff that anyone may report suspected cases of abuse or neglect directly to the appropriate outside agencies. An explanation of the facility's abuse prevention plan, individual abuse prevention plans, and internal reporting mechanism must be part of the facility's orientation and inservice training programs.~~

7 MCAR S 1.044 Definitions, general provisions, issuance of licenses.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

For the purpose of these regulations: A state license is required for any facility where nursing, personal or custodial care is provided for five or more aged or infirm persons who are not acutely ill.

A.-S. [Unchanged.]

T. Procedure for licensing of boarding care homes. Application for a license to establish or maintain a boarding care home shall be made in writing and submitted on forms provided by the department. If the applicant is a corporation, the officers shall furnish the department a copy of the articles of incorporation and bylaws and any amendments thereto as they occur. In addition, out-of-state corporations shall furnish the department with a copy of the certificate of authority to do business in Minnesota. No license shall be issued until all final inspections and clearances pertinent to applicable laws and regulations have been complied with.

U.-X. [Unchanged.]

Y. Procedures for licensing nursing homes.

1. Initial licensure. For the purpose of Y., initial licensure applies to newly constructed facilities designed to operate as nursing homes and to other facilities not already licensed as nursing homes. Applicants for initial licensure shall complete the license application form supplied by the department. Applications for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.

To be issued a license, the applicant must file with the department a copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.

If the applicant for licensure is a corporation, it shall submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. Applicants must submit these documents in order to be issued licenses. The department shall issue the initial license as of the date the department determines that the nursing home is in compliance with Minnesota Statutes, sections 144A.02 to 144A.16 and 7 MCAR SS 1.044-1.072, unless the applicant requests a later date.

2. Renewed licenses. An applicant for license renewal shall complete the license application form supplied by the department. Applications must be submitted at least 60 days before the expiration of the current license and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. <u>The department shall issue a renewed license if a nursing home continues to satisfy the requirements, standards, and conditions prescribed by Minnesota Statutes, sections 144A.01 to 144A.16 and 7 MCAR SS 1.044-1.072.</u>

If the licensee is a corporation, it shall submit any amendments to its articles of incorporation or bylaws along with the renewal application.

If the application specifies a different licensed capacity

from that provided on the current license, the licensee shall follow the procedures relating to license amendments specified in 6. If the changes are not approved before the current license expires, the renewed license will be issued without reflecting the requested changes.

3. Transfer of interests; notice. A controlling person, as defined in Minnesota Statutes, section 144A.01, subdivision 4, who transfers ~~an~~ a beneficial interest in the nursing home shall notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests, and the date of the transfer.

4. Transfer of interest; expiration of license. A transfer of a beneficial interest will result in the expiration of the nursing home's license under the following conditions:

a. if the transferred beneficial interest exceeds ten percent of the total beneficial interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses ~~an~~ a beneficial interest in excess of 50 percent of the total beneficial interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or

b. if the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.

Under either of these conditions, the nursing home license expires at the time of relicensure or 90 days after the date of the transfer or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90-day period, the licensee shall apply for a renewed license in accordance with section 2. The department shall notify the licensee by certified mail at least

60 days before the license expires.

5. Transfer of interest; relicensure. A controlling person may apply for relicensure by submitting the license application form at least 45 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. If the applicant for relicensure is a corporation, it shall submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. The department shall relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with Minnesota Statutes, sections 144A.02 to 144A.16 and ~~1.-12.~~ 7 MCAR SS 1.044-1.072, unless the applicant requests a later time. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

6. Amendment to the license. If the nursing home requests changes in its licensed capacity or in ~~the level of care provided~~ its license classification, it shall submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. The department shall amend the license as of the date the department determines that the nursing home is in compliance with Minnesota Statutes, sections 144A.01 to 144A.16 and 7 MCAR SS 1.044-1.072, unless a later date is requested by the licensee. The amendment to a license is effective for the remainder of the nursing home's licensure year.

7. Issuing conditions or limitations on the license. The department ~~may~~ shall attach to the license any conditions or limitations ~~it considers~~ when necessary to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and

well-being of the nursing home's residents. A condition or limitation may be attached when a license is first issued, when it is renewed, or during the course of the licensure year.

8. Reasons for conditions or limitations. In deciding to condition or limit a license the department shall consider ~~at least~~ the following:

a. the nature and number of correction orders or penalty assessments issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

b. the ~~commission of illegal acts by any of the controlling persons or employees of the nursing home~~ permitting, aiding, or abetting of the commission of any illegal act in the nursing home by any of the controlling persons or employees of the nursing home;

c. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

d. the condition of the physical plant or physical environment; ~~or~~

e. the existence of any outstanding variances or waivers; or

f. the number or types of residents the nursing home is able to provide for.

9. Types of conditions or limitations. The ~~types of conditions or limitations that may be attached to the license include at least the following~~ department shall impose one or more of the following conditions or limitations:

a. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;

b. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or

c. imposition of schedules for the completion of specified activities.

10. Statement of conditions or limitations. The department shall notify the applicant or licensee, in writing, of its decision to issue a conditional or limited license. The

department shall inform the applicant or licensee of the reasons for the condition or limitation and of the right to appeal. Unless otherwise specified, any condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists. The licensee shall notify the department when the reasons for the condition or limitation no longer exists. If the department determines that the condition or limitation is no longer required, it shall be removed from the license.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license in an accessible and visible location.

11. Effect of a condition or limitation. A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with Minnesota Statutes, section 144A.11.

~~If the department issues a correction order, it shall determine the time allowed for correction. That time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents.~~ If the department assesses a fine, the fine is $250. The fine accrues on a daily basis in accordance with Minnesota Statutes, section 144A.10.

12. Appeal procedure. The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceeding under the Administrative Procedure Act, Minnesota Statutes, sections ~~15.0418 to 15.0426~~ 14.57 to 14.70, within 15 days after receiving the notification described in 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional

or limited license should not be issued. ~~Except in a proceeding challenging the decision to condition or limit a current or renewal license, the applicant has the burden of proving that an unrestricted license should be issued.~~

13. License application forms. The department shall furnish the applicant or the licensee with the necessary forms to obtain initial or renewed licensure or to request relicensure of the nursing home after a transfer of interest. The license forms must require that the following information be provided:

a. General information.

(1) The name, address, and telephone number of the nursing home;

(2) The name of the county in which the nursing home is located;

(3) The legal property description of the land upon which the nursing home is located;

(4) The licensed bed capacity;

(5) The designation of the classification of ownership, e.g., state, county, city, city/county, hospital district, federal, corporation, nonprofit corporation, partnership, sole proprietorship, or other entity;

(6) The name and address of the controlling person or managerial employee who shall be responsible for dealing with the commissioner of health on all matters relating to the nursing home license and on whom personal service of all notices and orders shall be served;

(7) The location and square footage of the floor space constituting the facility; and

(8) For the purposes of license renewal, an indication of compliance with the provisions regarding the submission of financial statements to the Department of Public Welfare.

b. Disclosure of controlling persons. In accordance with Minnesota Statutes, section 144A.03, which requires that the nursing home license application identify the name and address of all controlling persons of the nursing home, as

defined in Minnesota Statutes, section 144A.01, subdivision 4:

(1) Administrator and licensee.

(a) The name and address of the administrator;

(b) The name and address of the licensee of the nursing home;

(c) If the licensee is a public body or governmental agency, the name and address of all individuals on the governing body who are officers or directors of the nursing home or who receive any remuneration from the nursing home;

(d) If the licensee is a partnership, the name and address of each general partner;

(e) If the licensee is a corporation, the name, address, and position of each individual who is an officer or director;

(f) If the licensee is a business association, the name and address of each individual who is an officer and director of the association;

(2) Administrator and licensee - previous work experience. Specify the previous work experience in Minnesota nursing homes during the past two years for each individual identified under b.(1)(a)-(f).

(3) Ownership interests - licensee.

(a) If the licensee is a partnership, the name and address of every individual, partnership, corporation, or other business association having an ownership interest in the partnership;

(b) If the licensee is a corporation, the name and address of every individual, partnership, corporation, or other business association having an ownership interest in the corporation;

(c) If the licensee is a business association, the name and address of every individual, partnership, corporation, or business association having an ownership interest in the business association.

(4) Ownership interests - land, structure, or facilities comprising the nursing home. The name and address of

each individual, partnership, corporation, or other business association having an ownership interest in one or more of the following:

(a) The land on which the nursing home is located;

(b) A structure in which the nursing home is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure comprising the nursing home; or

(d) Any lease or sublease of the land, structure, or facilities comprising the nursing home.

(5) Ownership interests - controlling persons. If a partnership, corporation, or other entity or association has been identified in response to b.3.-4., the following information must be provided:

(a) If a partnership is identified, the name and address of all partners;

(b) If a corporation is identified, the name and address of all individuals, partnerships, corporations, or other business associations having an ownership interest in that corporation;

(c) If a business association is identified, the name and address of all individuals, partnerships, corporations, or business associations having an ownership interest in that association.

If a partnership, corporation, or other business association is identified in response to b.(5), the name and address of the individuals, partnerships, corporations, or other business associations having an ownership interest therein shall be provided. The disclosure of ownership interests in all subsequently identified partnerships, corporations, or business associations shall continue until only natural persons are disclosed.

(6) Ownership interests - beneficial interests. For each individual identified in response to the questions above, the following information must be provided.

(a) The name and address of any individual who has the right to acquire that person's ownership interest through the exercise of an option or similar right; and

(b) The name and address of that person's spouse or relative or a relative of the spouse residing in the home of that person who has the right to control the ownership interest, such as voting rights or the right to share in the income from that interest.

c. Disclosure of managerial employees. Provide the name and address of all assistant administrators and service directors, and indicate their previous work experience in nursing homes located in Minnesota during the past two years.

7 MCAR S 1.046 General policies.
(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

(a)-(f) [See relettering instruction.]

G. Pet animals. Pet animals may be kept on the premises of a nursing home or boarding care home only in accordance with the provisions of 7 MCAR S 1.042.

(h)-(k) [See relettering instruction.]

L. [Unchanged.]

~~M.--Compliance-with-the-Vulnerable-Adult-Abuse-Reporting-Act. Each-nursing-home-or-boarding-care-home-shall-comply-with-the provisions-of-Minnesota-Statutes,-section-626.557-and-the provisions-of-7-MCAR-S-1.043.~~

7 MCAR S 1.048 Records and reports.
(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

A. Patient or resident care record. An individual chart shall be kept on each patient and resident admitted to the home. All entries shall be made with a pen and signed by the person making the entry. Accurate, complete and legible records for each patient or resident from the time of admission to the time of discharge or death shall be kept current and shall be maintained in a chart holder at the nurses' or attendants' station.

1.-7. [Unchanged.]

8. Record of patients' and residents' funds.

a.-b. [Unchanged.]

c. Personal fund accounts.

(1)-(6) [Unchanged.]

(7) Upon the request of the patient or resident or the patient's or resident's legal guardian or conservator or representative payee, the nursing home or boarding care home shall return all or any part of the patient's or resident's funds given to the nursing home or boarding care home for safekeeping, including interest, if any, accrued from deposits. The nursing home or boarding care home shall develop a policy specifying the period of time during which funds can be withdrawn. This policy must ensure that the ability to withdraw funds is provided in accordance with the needs of the residents. This policy must also specify whether or not the nursing home or boarding care home will establish a procedure allowing patients or residents to obtain funds to meet unanticipated needs on days when withdrawal periods are not scheduled. The nursing home or boarding care home shall notify patients and residents of the ~~time-periods-during-which-funds can-be-withdrawn.--The-nursing-home-or-boarding-care-home-shall establish-a-procedure-allowing-residents-to-obtain-funds-to-meet unanticipated-needs-on-days-when-withdrawal-periods-are-not scheduled~~ policy governing the withdrawal of funds. Funds kept outside of the facility shall be returned within five business days.

d.-e. [Unchanged.]

9.-11. [Unchanged.]

7 MCAR S 1.053 Medications.

THE FOLLOWING APPLY TO NURSING HOMES ONLY:

(a)-(e) [See relettering instruction.]

F. [Unchanged.]

(g)-(m) [See relettering instruction.]

N. Administration of medications by unlicensed personnel.

THE FOLLOWING APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES: Unlicensed nursing personnel who administer medications

in a nursing home or a boarding care home certified as an intermediate care facility as defined in United States Code, title 42, section 1396d, must have completed a medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution. The nursing home or boarding care home shall keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

7 MCAR S 1.057 Schedule of fines for uncorrected deficiencies.

A. Nursing homes and boarding care homes. A $50 penalty assessment will be issued under the provisions of Minnesota Statutes, section 144.653, subdivision 6 for noncompliance with correction orders relating to the sections of these regulations listed below:

1. 7 MCAR S 1.044 O., P., Q., S., T., U.;

2. MHD 45 (a)(3); (f); (h)(1); (h)(2)(aa); (h)(2)(ff); (h)(4);

3. MHD 46 (a); (b); (j); (k);

4. MHD 47 (c); (e);

5. MHD 48 (a)(4); (a)(5); (a)(6); (a)(7); (a)(9); (a)(11);

6. MHD 50 (a); (j);

7. MHD 52 (a)(2); (a)(3); (a)(4); (a)(9); (d); (e);

8. MHD 54 (a)(7); (b)(5);

9. MHD 55 (i);

10. MHD 56 (f); (h); and

11. MHD 64 (a)(22); (b)(15).

B. Nursing homes and boarding care homes. A $250 penalty assessment will be issued under the provisions of Minnesota Statutes, section 144.653, subdivision 6 for noncompliance with correction orders relating to all other sections of these regulations not specifically enumerated in A., C., or D.

C. Boarding care homes.

1. A $50 penalty assessment will be issued to a boarding care home under the provisions of Minnesota Statutes, section

144.653, subdivision 6 for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 B.1.;

b. 7 MCAR S 1.042 B.2.;

c. 7 MCAR S 1.042 B.3.;

~~d. 7 MCAR S 1.042 C.1.;~~

~~e. 7 MCAR S 1.042 C.5.;~~

~~f. 7 MCAR S 1.043 C.2.a.;~~

~~g. 7 MCAR S 1.043 D.3.;~~

~~h.~~ 7 MCAR S 1.048 A.4.;

~~i.~~ e. 7 MCAR S 1.048 A.8.a.;

~~j.~~ f. 7 MCAR S 1.048 A.8.b.(2);

~~k.~~ g. 7 MCAR S 1.048 A.8.c.(3);

~~l.~~ h. 7 MCAR S 1.048 A.8.c.(5);

~~m.~~ i. 7 MCAR S 1.048 A.8.c.(6);

~~n.~~ j. 7 MCAR S 1.048 A.8.d.;

~~o.~~ k. 7 MCAR S 1.048 A.8.e.;

~~p.~~ l. 7 MCAR S 1.052 A.1.b.; and

~~q.~~ m. 7 MCAR S 1.055 U.1.b.(1)(c).

2. A $250 penalty assessment will be issued to a boarding care home under the provisions of Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.1.;

b. 7 MCAR S 1.042 C.2.;

~~b.~~ c. 7 MCAR S 1.042 C.3.;

~~c.~~ d. 7 MCAR S 1.042 C.4.;

e. 7 MCAR S 1.042 C.5.; and

~~d.~~ f. 7 MCAR S 1.042 C.6.;

~~e. 7 MCAR S 1.042 C.7.;~~

~~f. 7 MCAR S 1.042 C.8.;~~

~~g. 7 MCAR S 1.042 C.9.;~~

~~h. 7 MCAR S 1.043 B.;~~

~~i. 7 MCAR S 1.043 C.1.;~~

~~j. 7 MCAR S 1.043 C.2.b.;~~

~~k. 7 MCAR S 1.043 C.2.c.;~~

~~l.--7-MCAR-S-1.043-C.2.d.;~~

~~m.--7-MCAR-S-1.043-C.2.e.;~~

~~n.--7-MCAR-S-1.043-D.1.;~~

~~o.--7-MCAR-S-1.043-D.2.a.;~~

~~p.--7-MCAR-S-1.043-D.2.b.;~~

~~q.--7-MCAR-S-1.043-D.2.c.;~~

~~r.--7-MCAR-S-1.043-D.2.d.;~~

~~s.--7-MCAR-S-1.043-D.2.e.;~~

~~t.--7-MCAR-S-1.043-E.1.;~~

~~u.--7-MCAR-S-1.043-E.2.;~~

~~v.--7-MCAR-S-1.043-E.3.;~~

~~w.--7-MCAR-S-1.043-E.4.;~~

~~x.--7-MCAR-S-1.043-E.5.;--and~~

~~y.--7-MCAR-S-1.043-F.~~

D. Nursing homes.

1. A $50 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 B.1.;

b. 7 MCAR S 1.042 B.2.;

c. 7 MCAR S 1.042 B.3.;

d. ~~7-MCAR-S-1.042-C.1.;~~

~~e.--7-MCAR-S-1.042-C.5.;~~

~~f.--7-MCAR-S-1.043-C.2.a.;~~

~~g.--7-MCAR-S-1.043-D.3.~~

~~h.--7-MCAR-S-1.044-Y.2.;~~

~~i.--7-MCAR-S-1.044-Y.3.;~~

~~j.~~ 7 MCAR S 1.048 A.4.;

~~k.~~ e. 7 MCAR S 1.048 A.8.a.;

~~l.~~ f. 7 MCAR S 1.048 A.8.b.(2);

~~m.~~ g. 7 MCAR S 1.048 A.8.c.(3);

~~n.~~ h. 7 MCAR S 1.048 A.8.c.(5);

~~n.~~ i. 7 MCAR S 1.048 A.8.c.(6);

~~o.~~ j. 7 MCAR S 1.048 A.8.d.;

~~p.~~ k. 7 MCAR S 1.048 A.8.e.;

~~q.~~ l. 7 MCAR S 1.052 A.1.b.;

r. m. 7 MCAR S 1.053 F.2.;

s. n. 7 MCAR S 1.055 U.1.b.(1)(c); and

t. o. 7 MCAR S 1.064 A.3.f.(1)(a).

2. A $150 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.1.;

b. 7 MCAR S 1.042 C.2.;

b. c. 7 MCAR S 1.042 C.3.;

c. d. 7 MCAR S 1.042 C.4.;

e. 7 MCAR S 1.042 C.5.;

d. f. 7 MCAR S 1.042 C.6.;

e. ~~7 MCAR S 1.042 C.7.;~~

f. ~~7 MCAR S 1.042 C.8.;~~

g. ~~7 MCAR S 1.042 C.9.;~~

h. ~~7 MCAR S 1.043 B.;~~

i. ~~7 MCAR S 1.043 C.1.;~~

j. ~~7 MCAR S 1.043 C.2.b.;~~

k. ~~7 MCAR S 1.043 C.2.c.;~~

l. ~~7 MCAR S 1.043 C.2.d.;~~

m. ~~7 MCAR S 1.043 C.2.e.;~~

n. ~~7 MCAR S 1.043 D.1.;~~

o. ~~7 MCAR S 1.043 D.2.a.;~~

p. ~~7 MCAR S 1.043 D.2.b.;~~

q. ~~7 MCAR S 1.043 D.2.c.;~~

r. ~~7 MCAR S 1.043 D.2.d.;~~

s. ~~7 MCAR S 1.043 D.2.e.;~~

t. ~~7 MCAR S 1.043 E.1.;~~

u. ~~7 MCAR S 1.043 E.2.;~~

v. ~~7 MCAR S 1.043 E.3.;~~

w. ~~7 MCAR S 1.043 E.4.;~~

x. ~~7 MCAR S 1.043 E.5.;~~

y. ~~7 MCAR S 1.043 F.;~~

z. g. 7 MCAR S 1.046 L.2.b.;

aa. h. 7 MCAR S 1.046 L.2.c.;

bb. i. 7 MCAR S 1.046 L.2.d.;

~~ee.~~ j. 7 MCAR S 1.046 L.2.e.;

~~dd.~~ k. 7 MCAR S 1.046 L.2.f.;

~~ee.~~ l. 7 MCAR S 1.046 L.3.;

~~ff.~~ m. 7 MCAR S 1.047 A.;

~~gg.~~ n. 7 MCAR S 1.048 A.8.b.(1);

~~hh.~~ o. 7 MCAR S 1.048 A.8.c.(1);

~~ii.~~ p. 7 MCAR S 1.048 A.8.c.(2);

~~jj.~~ q. 7 MCAR S 1.048 A.8.c.(4)(a);

~~kk.~~ r. 7 MCAR S 1.048 A.8.c.(4)(b);

~~ll.~~ s. 7 MCAR S 1.048 A.8.c.(4)(c);

~~mm.~~ t. 7 MCAR S 1.048 A.8.c.(7);

~~nn.~~ u. 7 MCAR S 1.053 N.;

~~oo.~~ v. 7 MCAR S 1.055 U.1.b.(1)(a);

~~pp.~~ w. 7 MCAR S 1.055 U.1.b.(1)(b);

~~qq.~~ x. 7 MCAR S 1.055 U.1.b.(2)(a);

~~rr.~~ y. 7 MCAR S 1.055 U.1.b.(2)(b);

~~ss.~~ z. 7 MCAR S 1.055 U.1.b.(2)(c);

~~tt.~~ aa. 7 MCAR S 1.055 U.1.b.(2)(d);

~~uu.~~ bb. 7 MCAR S 1.055 U.1.b.(2)(e);

~~vv.~~ cc. 7 MCAR S 1.055 U.1.b.(2)(f);

~~ww.~~ dd. 7 MCAR S 1.055 U.1.b.(2)(g);

~~xx.~~ ee. 7 MCAR S 1.055 U.1.b.(2)(h); and

~~yy.~~ ff. 7 MCAR S 1.055 U.1.b.(2)(i).

3. A $250 penalty assessment shall be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.046 L.2.a.; and

b. 7 MCAR S 1.064 A.3.f.(1)(b).

7 MCAR S 1.058 Allowable time periods for correction.

A. Allowable time periods for correction. The allowable time periods for complying with a correction order issued by the department shall be as follows:

~~1.--7-MCAR-S-1.044~~

~~a.--Y.2.~~ ~~14-days~~

~~b.--Y.3.~~ ~~14-days~~

1.-~~4.~~ 6. [~~See-renumbering-instruction~~ Unchanged.]

6.--7-MCAR-S-1.053

a.--F.2.----------30-days

b.--N. 14-days

6.--7.--[See renumbering instruction.]

9.--7-MCAR-S-1.042

a.--B.1.----------30-days

b.--B.2. 30-days

c.--B.3. 30-days

d.--C.1. 30-days

e.--C.2. 30-days

f.--C.3. 14-days

g.--C.4. 14-days

h.--C.5. 14-days

i.--C.6. 14-days

j.--C.7. 14-days

k.--C.8. 14-days

l.--C.9. 14-days

10.--7-MCAR-S-1.043

a.--B.----------14-days

b.--C.1. 14-days

c.--C.2.a. 14-days

d.--C.2.b. 14-days

e.--C.2.c. 14-days

f.--C.2.d. 14-days

g.--C.2.e. 14-days

h.--D.1. 14-days

i.--D.2.a. 14-days

j.--D.2.b. 14-days

k.--D.2.c. 14-days

l.--D.2.d. 14-days

m.--D.2.e. 14-days

n.--D.3. 14-days

o.--E.1. 14-days

p.--E.2. 14-days

q.--E.3. 14-days

~~r.--E.4.~~ ~~14-days~~

~~s.--E.5.~~ ~~14-days~~

~~t.--F.~~ ~~14-days~~

B. [Unchanged.]

~~C.--Decreasing-the-time-allowed-for-correction.--The department-shall-allow-the-nursing-home-the-period-of-time-for correction-specified-in-section-A.-unless-the-department determines-that-a-violation-must-be-corrected-within-a-shorter time-because-noncompliance-will-jeopardize-the-health, treatment,-safety,-comfort,-or-well-being-of-the-nursing-home residents.--If-the-department-orders-a-shorter-period-of-time for-correction,-that-time-period-must-be-specified-in-the correction-order-and-must-be-related-to-the-nature-of-the violation-and-the-interests-of-the-residents.--No-provision-in-7 MCAR-S-1.058-prevents-the-department-from-ordering-immediate correction-of-a-deficiency-if-necessary-to-protect-the-health, treatment,-safety,-comfort,-and-well-being-of-the-nursing-home residents.~~

7 MCAR S 1.377 General provisions.

A. [Unchanged.]

B. Applicability to employers.

1.-4. [Unchanged.]

5. An employer which is preempted from complying with Minnesota Statutes, section 62E.17, subdivision 1, as a result of the Employee Retirement Income Security Act, United States Code, title 29, sections 1144 (a) and 1144 (b)(2)(B) is not an "applicable employer" for the purposes of 7 MCAR SS 1.366 to 1.380.

C.-F. [Unchanged.]

7 MCAR S 1.392 General provisions.

A.-B. [Unchanged.]

(c)-(l) [See relettering instruction.]

M. Pet animals. Pet animals may be kept on the premises of a supervised living facility only in accordance with the provisions of 7 MCAR S 1.042.

~~N. Compliance with the Vulnerable Adult Abuse Reporting Act. Each supervised living facility shall comply with the provisions of Minnesota Statutes, section 626.557 and the provisions of 11 MCAR S 1.043.~~

~~O.~~ Schedule of fines for uncorrected deficiencies.

1. A $50 penalty assessment will be issued to a supervised living facility under Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the rules listed below:

a. 7 MCAR S 1.042 B.1.;

b. 7 MCAR S 1.042 B.2.; and

c. 7 MCAR S 1.042 B.3.;

~~d. 7 MCAR S 1.042 C.1.;~~

~~e. 7 MCAR S 1.042 C.5.;~~

~~f. 7 MCAR S 1.043 C.2.a.; and~~

~~g. 7 MCAR S 1.043 D.3.~~

2. A $250 penalty assessment will be issued to a supervised living facility under Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.1.;

b. 7 MCAR S 1.042 C.2.;

~~b.~~ c. 7 MCAR S 1.042 C.3.;

~~c.~~ d. 7 MCAR S 1.042 C.4.;

e. 7 MCAR S 1.042 C.5.; and

~~d.~~ f. 7 MCAR S 1.042 C.6.;

~~e. 7 MCAR S 1.042 C.7.;~~

~~f. 7 MCAR S 1.042 C.8.;~~

~~g. 7 MCAR S 1.042 C.9.;~~

~~h. 7 MCAR S 1.043 B.;~~

~~i. 7 MCAR S 1.043 C.1;~~

~~j. 7 MCAR S 1.043 C.2.b.;~~

~~k. 7 MCAR S 1.043 C.2.c.;~~

~~l. 7 MCAR S 1.043 C.2.d.;~~

~~m. 7 MCAR S 1.043 C.2.e.;~~

~~n.--7-MCAR-S-1.043-D.1.;~~

~~o.--7-MCAR-S-1.043-D.2.a.;~~

~~p.--7-MCAR-S-1.043-D.2.b.;~~

~~q.--7-MCAR-S-1.043-D.2.c.;~~

~~r.--7-MCAR-S-1.043-D.2.d.;~~

~~s.--7-MCAR-S-1.043-D.2.e.;~~

~~t.--7-MCAR-S-1.043-E.1.;~~

~~u.--7-MCAR-S-1.043-E.2.;~~

~~v.--7-MCAR-S-1.043-E.3.;~~

~~w.--7-MCAR-S-1.043-E.4.;~~

~~x.--7-MCAR-S-1.043-E.5.;-and~~

~~y.--7-MCAR-S-1.043-F.~~

Relettering and renumbering. Reletter 7 MCAR S 1.046 (a)-(f) as A.-F.; (h)-(k) as H.-K.; 7 MCAR S 1.053 (a)-(e) as A.-E.; (g)-(m) as G.-M.; and 7 MCAR S 1.392 (c)-(l) as C.-L. Renumber ~~7-MCAR-S-1.058-A.1.-4.-as-A.2.-5.;-and-A.6.-7.-as-A.7.-8.~~

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Health AR0249

Division: Health Systems Division

Agency Contact: H. Mike Tripple

Rule Numbers: 7 MCAR SS 1.042; 1.043; 1.044; 1.046; 1.048; 1.053; 1.057; 1.377; and 1.392

Title: Adopted Rules Governing Licensure, Penalties, Reports of Abuse of Vulnerable Adults, and the Presence of Pet Animals in Certain Health Care Facilities

Type of Rules: Permanent

Incorporations by Reference: None
Rule Number: Material Incorporated:

Duplication of Statutory Language: None noted
Rule Number: Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: June 8, 1983

APPROVED AS TO LEGALITY
June 20, 1982
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 20 1983 3:30 P.M.
Joan Anderson Growe
Secretary of State

Rules as Proposed

RECEIVED
AUG 25 1982
ADMINISTRATIVE HEARINGS

7 MCAR S 1.042 Pet animals in health care facilities.

A. Definition. As used in 7 MCAR S 1.042, "health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under ' Minnesota Statutes, ' sections 144.50 to 144.56 or ' Minnesota Statutes, ' sections 144A.01 to 144A.17.

B. Written policy.

1. Every health care facility shall establish a written policy specifying whether or not pet animals can be kept on the facility's premises.

2. If pet animals are allowed to be kept on the premises, the policy must:

a. specify whether or not individual patients or residents will be permitted to keep pets; and

b. specify the restrictions established by the health care facility regarding the keeping of pet animals.

3. This policy must be developed only after consultation with facility staff and with patients or residents, as appropriate.

C. Conditions. If pet animals are allowed to be kept within the facility, the following requirements must be met:

✓ 1. A written policy must be developed which specifies the types of pet animals that are allowed to be kept within the health care facility.

2. The policy required by 1. shall be developed in consultation with a veterinarian and a physician to assure that pets which, in their opinion, present a higher risk of transmitting diseases to human beings are not allowed to be kept within the facility.

3. All pet animals must be in good health.

4. The health care facility shall ensure that pets are examined and receive any necessary immunizations or treatments in accordance with a veterinarian's recommendations.

5. A copy of the veterinarian's recommendations as well

as records of all examinations, treatments, and immunizations shall be retained in the health care facility.

6. Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets kept within or on the premises of the facility.

7. The health care facility shall ensure that no pet creates a nuisance or otherwise jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents, or staff.

8. A facility employee shall be designated as being responsible for the care of all pet animals and for ensuring the cleanliness and maintenance of cages, tanks, and other areas used to house pets.

9. Except for guide dogs accompanying a blind or deaf individual, pets shall not be permitted in areas where food is prepared, served, or stored; in dishwashing areas; dish storage areas; in medication storage areas; in clean or sterile supply storage areas; in nurses' stations; or in any other areas where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety, and well-being of patients or residents.

nos 3-36 underlined

7 MCAR S 1.043 Preventing abuse and neglect of vulnerable adults in ~~health care~~ facilities licensed or certified by the Department of Health.

A. Definition. As used in 7 MCAR S 1.043, "~~health care~~ facility" means ~~a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under 'Minnesota Statutes,' sections 144.50 to 144.56 or 'Minnesota Statutes,' sections 144A.01 to 144A.071~~ has the meaning given to it in 'Minnesota Statutes' section 626.557, subdivision 2, clause (a).

B. General requirement. A ~~health care~~ facility shall comply with ' Minnesota Statutes, ' section 626.557.

C. Facility abuse prevention plan.

1. ~~The health care facility~~ Every facility which admits vulnerable adults on an inpatient basis shall develop and implement a written plan to prevent abuse in the facility. The plan must be designed to identify and remedy conditions in the population, environment, and physical plant that make patients or residents

Lines 36 - all underlined

susceptible to abuse.

2. The plan must meet the following requirements:

a. It must be developed by an interdisciplinary committee selected by the administrator of the facility.

b. It must be based on a written assessment of the population, environment, and physical plant. The assessment must address areas such as the following: the inability of patients or residents to act for themselves because of physical, mental, or emotional impairments; the possibility that patients or residents will injure themselves or others because of their physical, mental, or emotional conditions; admission policies and continued stay policies; visitation policies and visitor restrictions; the qualifications and training of staff to meet identified patient and resident needs; the adequacy of programs or services provided in the facility; the orientation and ongoing educational programs offered to employees; patient's and resident's room assignments; the physical conditions of the facility such as lighting levels, furniture placement and decor, and the location and surrounding environs of the facility.

c. It must include a written plan to correct or alleviate the conditions identified by the assessment that make patients and residents susceptible to abuse.

d. Its plan to correct the identified conditions must specify the action to be taken and set a schedule for completing the corrections.

e. It must be reviewed at least annually by an interdisciplinary committee and revised if necessary. The date of each review must be recorded on the plan.

D. Individual abuse prevention plan.

1. ~~The health care facility~~ Every facility which admits vulnerable adults on an inpatient basis shall set written policies and procedures governing the development of written individual abuse prevention plans in accordance with ' Minnesota Statutes, ' section 626.557, subdivision 14, clause (b).

2. The policies and procedures must meet the following requirements:

a. They must establish the mechanism for developing

Line 1-36 all-underlined

the individual abuse prevention plans.

b. They must require that an interdisciplinary team conduct for each patient or resident an initial individual assessment that addresses the individual's susceptibility to abuse and the measures to be taken to minimize the risk of abuse to that resident.

c. They must require that the plan is developed as part of the initial plan of care for the patient or resident.

d. They must require at least an annual review of the plan as long as the patient or resident stays in the facility.

e. d. They must require that the individual's plan be revised whenever necessary.

3. The development, review, and revision of the individual abuse plans may be part of a patient's and resident's care plan.

E. Internal reporting system.

1. The ~~health care~~ facility shall set up a mechanism to ensure that all suspected cases of abuse or neglect are reported to an individual mandated to report under ' Minnesota Statutes, ' section 626.557 and are promptly investigated by facility staff.

2. The ~~health care~~ facility shall designate the person responsible for reviewing and investigating all suspected cases of abuse or neglect. However, if the person responsible for the review and investigation is suspected of committing abuse or neglect, the ~~health care~~ facility shall authorize another to conduct the review and investigation.

3. The ~~health care~~ facility shall designate the person responsible for reporting all cases of abuse or neglect to the appropriate authority in accordance with ' Minnesota Statutes, ' section 626.557.

4. The ~~health care~~ facility shall keep written records of reviews and investigations of suspected cases of abuse or neglect. These records must include a summary of the findings, persons involved, persons interviewed or notified, conclusions, and actions taken. A copy of the completed record shall be forwarded to the Office of Health Facility Complaints of the Department of Health.

5. When a patient or resident is admitted, the ~~health~~

care facility shall explain its internal reporting mechanism to the individual or to the people legally responsible for the patient or resident. It shall also inform these people that anyone may report suspected cases of abuse and neglect directly to outside agencies.

F. Notification. The health care facility shall inform its staff of the mandatory reporting requirements and of the responsibilities imposed on the home staff by ' Minnesota Statutes, ' section 626.557. It shall also inform its staff that anyone may report suspected cases of abuse or neglect directly to the appropriate outside agencies. An explanation of the facility's abuse prevention plan, individual abuse prevention plans, and internal reporting mechanism must be part of the facility's orientation and inservice training programs.

7 MCAR S 1.044 Definitions, general provisions, issuance of licenses.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

For the purpose of these regulations: A state license is required for any facility where nursing, personal or custodial care is provided for five or more aged or infirm persons who are not acutely ill.

A.-S. [Unchanged.]

T. Procedure for licensing of boarding care homes. ~~Any person acting individually or jointly with other persons who proposes to build, own, establish or operate a nursing home or boarding care home shall submit a preliminary information questionnaire as furnished by the department at the time of initial contact as specified under MHD 44(s).~~ Application for a license to establish or maintain ~~such a facility~~ a boarding care home shall be made in writing and submitted on forms provided by the department. If the applicant is a corporation, the officers shall furnish the department a copy of the articles of incorporation and bylaws and any amendments thereto as they occur. In addition, out-of-state corporations shall furnish the department with a copy of the certificate of authority to do

business in Minnesota. No license shall be issued until all final inspections and clearances pertinent to applicable laws and regulations have been complied with.

U.-X. [Unchanged.]

Y. Procedures for licensing nursing homes.

1. Initial licensure. For the purpose of Y., initial licensure applies to newly constructed facilities designed to operate as nursing homes and to other facilities not already licensed as nursing homes. Applicants for initial licensure shall complete the license application form supplied by the department. Applications for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.

To be issued a license, the applicant must file with the department a copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.

If the applicant for licensure is a corporation, it shall submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. Applicants must submit these documents in order to be issued licenses. The department shall issue the initial license as of the date the department determines that the nursing home is in compliance with ' Minnesota Statutes, ' sections 144A.02 to 144A.16 and ~~2.-12.~~ the provisions of the nursing home licensure rules, unless the applicant requests a later date.

2. Renewed licenses. An applicant for license renewal shall complete the license application form supplied by the department. Applications must be submitted at least 60 days before the expiration of the current license and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.

If the licensee is a corporation, it shall submit any amendments to its articles of incorporation or bylaws along with the renewal application.

If the application specifies a different licensed capacity from the current license, the licensee shall follow the procedures relating to license amendments specified in section 6. If the changes are not approved before the current license expires, the renewed license will be issued without reflecting the requested changes.

3. Transfer of interests; notice. A controlling person, as defined in ' Minnesota Statutes, ' section 144A.01, subdivision 4, who transfers an interest in the nursing home shall notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests, and the date of the transfer.

4. Transfer of interest; expiration of license. A transfer of interest will result in the expiration of the nursing home's license under the following conditions:

a. if the transferred interest exceeds ten percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses an interest in excess of 50 percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or

b. if the transferred interest exceeds 50 percent of the total interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.

Under either of these conditions, the nursing home license expires 90 days after the date of the transfer or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90-day period, the licensee shall apply for a renewed license in accordance with section 2. The department shall notify the licensee by certified mail at least 60 days before the license expires.

5. Transfer of interest; relicensure. A controlling person may apply for relicensure by submitting the license application form at least 45 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. If the notice of a transfer of interest was not submitted at least 14 days before the date of the transfer, the department shall impose a late filing fee of $250 in addition to the fee for relicensure. If the applicant for relicensure is a corporation, it shall submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. The department shall relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with ' Minnesota Statutes, ' sections 144A.02 to 144A.16 and 1.-12., unless the applicant requests a later time. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

6. Amendment to the license. If the nursing home requests changes in its licensed capacity or in the level of care provided, it shall submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and must be accompanied by a fee of $25. The amendment to a license is effective for the remainder of the nursing home's licensure year.

7. Issuing conditions or limitations on the license. The department may attach to the license any conditions or limitations it considers necessary to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and well-being of the nursing home's residents. A condition or limitation may be attached when a license is first issued or, when it is renewed, or during the course of the license year.

8. Reasons for conditions or limitations. In deciding to condition or limit a license the department shall consider at

if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula established in 7 MCAR § 1.701, Exhibit I.

least the following:

a. the nature and number of correction orders issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

b. the commission of illegal acts by any of the controlling persons or employees of the nursing home;

c. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

d. the condition of the physical plant or physical environment; or

e. the existence of any outstanding variances or waivers.

9. Types of conditions or limitations. The types of conditions or limitations that may be attached to the license include at least the following:

a. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;

b. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or

c. imposition of schedules for the completion of specified activities.

10. Statement of conditions or limitations. The department shall notify the applicant, in writing, of its decision to issue a conditional or limited license. The department shall inform the applicant of the reasons for the condition or limitation and of the right to appeal. Unless otherwise specified, any condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license or in an accessible and visible location.

The licensee shall notify the Department when the reasons for the condition or limitation no longer exists. If the Department determines that the condition or limitation is no longer required, it shall be removed from the license.

11. Effect of a condition or limitation. A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with ' Minnesota Statutes, ' section 144A.11.

If the department issues a correction order, it shall determine the time allowed for correction. That time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. If the department assesses a fine, the fine is $250. The fine accrues on a daily basis in accordance with ' Minnesota Statutes, ' section 144A.10.

12. Appeal procedure. The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceeding under the Administrative Procedure Act, ' Minnesota Statutes, ' sections 15.0418 to 15.0426, within 15 days after receiving the notification described in 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional or limited license should not be issued. Except in a proceeding challenging the decision to condition or limit a current renewal license, the applicant has the burden of proving that an unrestricted license should be issued.

7 MCAR S 1.046 General policies.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

(a)-(f) [Unchanged.]

~~(g)~~ G. ~~Animals or birds. No animals, birds, turtles or reptiles shall be housed in a nursing home or in a boarding care home~~ Pet animals. Pet animals may be kept on the premises of a nursing home or boarding care home only in accordance with the provisions of 7 MCAR S 1.042.

(h)-(l) [Unchanged.]

7 MCAR S 1.048 Records and reports.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

A. Patient or resident care record. An individual chart

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

M. Compliance with the Vulnerable Adult Abuse Reporting Act. Each nursing home or boarding care home shall comply with the provisions of ' Minnesota Statutes ' Section 626.557 and the provisions of 7 MCAR S 1.043.

shall be kept on each patient and resident admitted to the home. All entries shall be made with a pen and signed by the person making the entry. Accurate, complete and legible records for each patient or resident from the time of admission to the time of discharge or death shall be kept current and shall be maintained in a chart holder at the nurses' or attendants' station.

1.-7. [Unchanged.]

8. Record of patients' and residents' funds.

a.-b. [Unchanged.]

c. Personal fund accounts.

(1)-(6) [Unchanged.]

(7) Upon the request of the patient or resident or the patient's or resident's legal guardian or conservator or representative payee, the nursing home or boarding care home shall return all or any part of the patient's or resident's funds given to the nursing home or boarding care home for safekeeping, including interest, if any, accrued from deposits. The nursing home or boarding care home shall develop a policy specifying the period of time during which funds can be withdrawn ~~on each day of the week~~. This policy must ensure that the ability to withdraw funds is provided in accordance with the needs of the residents. The nursing home or boarding care home shall notify patients and residents of the time periods during which funds can be withdrawn. Funds kept outside of the facility shall be returned within five business days.

d.-e. [Unchanged.]

9.-11. [Unchanged.]

The nursing home or boarding care home shall establish a procedure allowing residents to obtain funds to meet unanticipated needs on days when withdrawal periods are not scheduled.

7 MCAR S 1.053 Medications.

THE FOLLOWING APPLY TO NURSING HOMES ONLY:

(a)-(e) [Unchanged.]

F. [Unchanged.]

(g)-(m) [Unchanged.]

N. Administration of medications by unlicensed personnel.

THE FOLLOWING APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES: Unlicensed nursing personnel who administer medications

in a nursing home or boarding care home must have completed a medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution. The nursing home or boarding care home shall keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

7 MCAR S 1.057 Schedule of fines for uncorrected deficiencies.

~~(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)~~

A. Nursing homes and boarding care homes. A $50 penalty assessment will be issued under the provisions of ' Minnesota Statutes, ' section 144.653, subdivision 6 ~~(1974)~~ for noncompliance with correction orders relating to the sections of these regulations listed below:

~~MHD 44 (e); (p); (q); (s); (t); (u)~~ 1. 7 MCAR S 1.044 O., P., Q., S., T., U.;

2. MHD 45 (a)(3); (f); (h)(1); (h)(2)(aa); (h)(2)(ff); (h)(4);

3. MHD 46 (a); (b); (j); (k);

4. MHD 47 (c); (e);

5. MHD 48 (a)(4); (a)(5); (a)(6); (a)(7); (a)(9); (a)(11);

6. MHD 50 (a); (j);

7. MHD 52 (a)(2); (a)(3); (a)(4); (a)(9); (d); (e);

8. MHD 54 (a)(7); (b)(5);

9. MHD 55 (i);

10. MHD 56 (f); (h); and

11. MHD 64 (a)(22); (b)(15).

B. Nursing homes and boarding care homes. A $250 penalty assessment will be issued under the provisions of ' Minnesota Statutes, ' section 144.653, subdivision 6 ~~(1974)~~ for noncompliance with correction orders relating to all other sections of these regulations not specifically enumerated in ~~section~~ A. ~~or~~, C., or D.

C. Boarding care homes.

1. A $50 penalty assessment will be issued to a boarding care home under the provisions of ' Minnesota Statutes, '

section 144.653, subdivision 6 for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.048 A.4.;
b. 7 MCAR S 1.048 A.8.a.;
c. 7 MCAR S 1.048 A.8.b.(2);
d. 7 MCAR S 1.048 A.8.c.(3);
e. 7 MCAR S 1.048 A.8.c.(5);
f. 7 MCAR S 1.048 A.8.c.(6);
g. 7 MCAR S 1.048 A.8.d.;
h. 7 MCAR S 1.048 A.8.e.;
i. 7 MCAR S 1.052 A.1.b.;
j. 7 MCAR S 1.055 U.1.b.(1)(c);
k. 7 MCAR S 1.042 B.1.;
l. 7 MCAR S 1.042 B.2.;
m. 7 MCAR S 1.042 B.3.;
n. 7 MCAR S 1.042 C.1.;
o. 7 MCAR S 1.042 C.5.;
p. 7 MCAR S 1.043 C.2.a.; and
q. 7 MCAR S 1.043 D.3.

2. A $250 penalty assessment will be issued to a boarding care home under the provisions of ' Minnesota Statutes, ' section 144.653, subdivision 6 for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.2.;
b. 7 MCAR S 1.042 C.3.;
c. 7 MCAR S 1.042 C.4.;
d. 7 MCAR S 1.042 C.6.;
e. 7 MCAR S 1.042 C.7.;
f. 7 MCAR S 1.042 C.8.;
g. 7 MCAR S 1.042 C.9.;
h. 7 MCAR S 1.043 B.;
i. 7 MCAR S 1.043 C.1.;
j. 7 MCAR S 1.043 C.2.b.;
k. 7 MCAR S 1.043 C.2.c.;
l. 7 MCAR S 1.043 C.2.d.;
m. 7 MCAR S 1.043 C.2.e.;

n. 7 MCAR S 1.043 D.1.;

o. 7 MCAR S 1.043 D.2.a.;

p. 7 MCAR S 1.043 D.2.b.;

q. 7 MCAR S 1.043 D.2.c.;

r. 7 MCAR S 1.043 D.2.d.;

s. 7 MCAR S 1.043 E.1.; → s. 7 MCAR S 1.043 D.2.e.

t. 7 MCAR S 1.043 E.2.;

u. 7 MCAR S 1.043 E.3.;

v. 7 MCAR S 1.043 E.4.;

w. 7 MCAR S 1.043 E.5.; and

x. 7 MCAR S 1.043 F.

~~C.~~ D. Nursing homes.

1. A $50 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.044 Y.2.;

b. 7 MCAR S 1.044 Y.3.;

~~a.~~ c. 7 MCAR S 1.048 A.4.;

~~b.~~ d. 7 MCAR S 1.048 A.8.a.;

~~c.~~ e. 7 MCAR S 1.048 A.8.b.(2);

~~d.~~ f. 7 MCAR S 1.048 A.8.c.(3);

~~e.~~ g. 7 MCAR S 1.048 A.8.c.(5);

~~f.~~ h. 7 MCAR S 1.048 A.8.c.(6);

~~g.~~ i. 7 MCAR S 1.048 A.8.d.;

~~h.~~ j. 7 MCAR S 1.048 A.8.e.;

~~i.~~ k. 7 MCAR S 1.052 A.1.b.;

~~j.~~ l. 7 MCAR S 1.053 F.2.;

~~k.~~ m. 7 MCAR S 1.055 U.1.b.(1)(c);

~~l.~~ n. 7 MCAR S 1.064 A.3.f.(1)(a);

o. 7 MCAR S 1.042 B.1.;

p. 7 MCAR S 1.042 B.2.;

q. 7 MCAR S 1.042 B.3.;

r. 7 MCAR S 1.042 C.1.;

s. 7 MCAR S 1.042 C.5.;

t. 7 MCAR S 1.043 C.2.a.; and

u. 7 MCAR S 1.043 D.3.

2. A $150 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.046 L.2.b.;

b. 7 MCAR S 1.046 L.2.c.;

c. 7 MCAR S 1.046 L.2.d.;

d. 7 MCAR S 1.046 L.2.e.;

e. 7 MCAR S 1.046 L.2.f.;

f. 7 MCAR S 1.046 L.3.;

g. 7 MCAR S 1.047 A.;

h. 7 MCAR S 1.048 A.8.b.(1);

i. 7 MCAR S 1.048 A.8.c.(1);

j. 7 MCAR S 1.048 A.8.c.(2);

k. 7 MCAR S 1.048 A.8.c.(4)(a);

l. 7 MCAR S 1.048 A.8.c.(4)(b);

m. 7 MCAR S 1.048 A.8.c.(4)(c);

n. 7 MCAR S 1.048 A.8.c.(7);

o. 7 MCAR S 1.053 N.;

~~e.~~ p. 7 MCAR S 1.055 U.1.b.(1)(a);

~~p.~~ q. 7 MCAR S 1.055 U.1.b.(1)(b);

~~q.~~ r. 7 MCAR S 1.055 U.1.b.(2)(a);

~~r.~~ s. 7 MCAR S 1.055 U.1.b.(2)(b);

~~s.~~ t. 7 MCAR S 1.055 U.1.b.(2)(c);

~~t.~~ u. 7 MCAR S 1.055 U.1.b.(2)(d);

~~u.~~ v. 7 MCAR S 1.055 U.1.b.(2)(e);

~~v.~~ w. 7 MCAR S 1.055 U.1.b.(2)(f);

~~w.~~ x. 7 MCAR S 1.055 U.1.b.(2)(g);

~~x.~~ y. 7 MCAR S 1.055 U.1.b.(2)(h);

~~y.~~ z. 7 MCAR S 1.055 U.1.b.(2)(i);

aa. 7 MCAR S 1.042 C.2.;

bb. 7 MCAR S 1.042 C.3.;

cc. 7 MCAR S 1.042 C.4.;

dd. 7 MCAR S 1.042 C.6.;

ee. 7 MCAR S 1.042 C.7.;

ff. 7 MCAR S 1.042 C.8.;

gg. 7 MCAR S 1.042 C.9.;

hh. 7 MCAR S 1.043 B.;

ii. 7 MCAR S 1.043 C.1.;

jj. 7 MCAR S 1.043 C.2.b.;

kk. 7 MCAR S 1.043 C.2.c.;

ll. 7 MCAR S 1.043 C.2.d.;

mm. 7 MCAR S 1.043 C.2.e.;

nn. 7 MCAR S 1.043 D.1.;

oo. 7 MCAR S 1.043 D.2.a.;

pp. 7 MCAR S 1.043 D.2.b.;

qq. 7 MCAR S 1.043 D.2.c.;

rr. 7 MCAR S 1.043 D.2.d.;

~~ss.~~ 7 MCAR S 1.043 E.1.; → ss. 7 MCAR § 1.043 D.2.e.

~~tt.~~ 7 MCAR S 1.043 E.2.;

~~uu.~~ 7 MCAR S 1.043 E.3.;

~~vv.~~ 7 MCAR S 1.043 E.4.;

~~ww.~~ 7 MCAR S 1.043 E.5.; and

~~xx.~~ 7 MCAR S 1.043 F.

3. A $250 penalty assessment shall be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.046 L.2.a.; and

b. 7 MCAR S 1.064 A.3.f.(1)(b).

7 MCAR S 1.058 Allowable time periods for correction.

A. Allowable time periods for correction. The allowable time periods for complying with a correction order issued by the department shall be as follows:

1. 7 MCAR S 1.044	
a. Y.2.	14 days
b. Y.3.	14 days
~~1.~~ 2. [Unchanged.]	
~~2.~~ 3. [Unchanged.]	
~~3.~~ 4. [Unchanged.]	
~~4.~~ 5. [Unchanged.]	
~~5.~~ 6. 7 MCAR S 1.053	
a. F.2.	30 days
b. N.	14 days

~~6.~~ 7. [Unchanged.]

~~7.~~ 8. [Unchanged.]

9. 7 MCAR S 1.042

a. B.1.	30 days
b. B.2.	30 days
c. B.3.	30 days
d. C.1.	30 days
e. C.2.	30 days
f. C.3.	14 days
g. C.4.	14 days
h. C.5.	14 days
i. C.6.	14 days
j. C.7.	14 days
k. C.8.	14 days
l. C.9.	14 days

10. 7 MCAR S 1.043

a. B.	14 days
b. C.1.	14 days
c. C.2.a.	14 days
d. C.2.b.	14 days
e. C.2.c.	14 days
f. C.2.d.	14 days
g. C.2.e.	14 days
h. D.1.	14 days
i. D.2.a.	14 days
j. D.2.b.	14 days
k. D.2.c.	14 days
l. D.2.d.	14 days
m. D.2.e.	~~14 days~~
m. D.3.	14 days
n. E.1.	14 days
o. E.2.	14 days
p. E.3.	14 days
q. E.4.	14 days
r. E.5.	14 days

F. 14 days

B. [Unchanged.]

C. Decreasing the time allowed for correction. The department shall allow the nursing home the maximum period of time for correction, unless the department determines that a violation must be corrected within a shorter time because noncompliance will jeopardize the health, treatment, safety, comfort, or well-being of the nursing home residents. If the department orders a shorter period of time for correction, that time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. No provision in 7 MCAR S 1.058 prevents the department from ordering immediate correction of a deficiency if necessary to protect the health, treatment, safety, comfort, and well-being of the nursing home residents.

7 MCAR S 1.377 General provisions.

A. [Unchanged.]

B. Applicability to employers.

1.-4. [Unchanged.]

5. An employer which is preempted from complying with ' Minnesota Statutes, ' section 62E.17, subdivision 1, as a result of the Employee Retirement Income Security Act, ' United States Code, ' title 29, sections 1144 (a) and 1144 (b)(2)(B) is not an "applicable employer" for the purposes of 7 MCAR SS 1.366 to 1.380.

C.-F. [Unchanged.]

7 MCAR S 1.392 General provisions.

A.-B. [Unchanged.]

(c)-(l) [Unchanged.]

M. Pet animals. Pet animals may be kept on the premises of a supervised living facility only in accordance with the provisions of 7 MCAR § 1.042.

N. Compliance with the Vulnerable Adult Abuse Reporting Act. Each supervised living facility shall comply with the provisions of 'Minnesota Statutes' section 626.557 and the provisions of 7 MCAR § 1.043.

O. M. Schedule of fines for uncorrected deficiencies.

1. A $50 penalty assessment will be issued to a supervised living facility under ' Minnesota Statutes, ' section 144.653, subdivision 6, for noncompliance with correction orders relating to the rules listed below:

a. 7 MCAR S 1.042 B.1.;

b. 7 MCAR S 1.042 B.2.;

c. 7 MCAR S 1.042 B.3.;

d. 7 MCAR S 1.042 C.1.;

e. 7 MCAR S 1.042 C.5.;

f. 7 MCAR S 1.043 C.2.a.; and

g. 7 MCAR S 1.043 D.3.

2. A $250 penalty assessment will be issued to a supervised living facility under ' Minnesota Statutes, ' section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.2.;

b. 7 MCAR S 1.042 C.3.;

c. 7 MCAR S 1.042 C.4.;

d. 7 MCAR S 1.042 C.6.;

e. 7 MCAR S 1.042 C.7.;

f. 7 MCAR S 1.042 C.8.;

g. 7 MCAR S 1.042 C.9.;

h. 7 MCAR S 1.043 B.;

i. 7 MCAR S 1.043 C.1;

j. 7 MCAR S 1.043 C.2.b.;

k. 7 MCAR S 1.043 C.2.c.;

l. 7 MCAR S 1.043 C.2.d.;

m. 7 MCAR S 1.043 C.2.e.;

n. 7 MCAR S 1.043 D.1.;

o. 7 MCAR S 1.043 D.2.a.;

p. 7 MCAR S 1.043 D.2.b.;

q. 7 MCAR S 1.043 D.2.c.;

r. 7 MCAR S 1.043 D.2.d.;

s. 7 MCAR S 1.043 E.1.; → s. 7 MCAR § 1.043 D.2.e.

t. 7 MCAR S 1.043 E.2.;

u. 7 MCAR S 1.043 E.3.;

v. 7 MCAR S 1.043 E.4.;

w. 7 MCAR S 1.043 E.5.; and

x. 7 MCAR S 1.043 F.

7 MCAR S 1.042 Pet animals in health care facilities.

A. Definition. As used in 7 MCAR S 1.042, "health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under ' Minnesota Statutes, ' sections 144.50 to 144.56 or ' Minnesota Statutes, ' sections 144A.01 to 144A.17.

B. Written policy.

1. Every health care facility shall establish a written policy specifying whether or not pet animals can be kept on the facility's premises.

2. If pet animals are allowed to be kept on the premises, the policy must:

a. specify whether or not individual patients or residents will be permitted to keep pets; and

b. specify the restrictions established by the health care facility regarding the keeping of pet animals.

3. This policy must be developed only after consultation with facility staff and with patients or residents, as appropriate.

C. Conditions. If pet animals are allowed to be kept within the facility, the following requirements must be met:

1. A policy must be developed which specifies the types of pet animals that are allowed to be kept within the health care facility.

2. The policy required by 1. shall be developed in consultation with a veterinarian and a physician to assure that pets which, in their opinion, present a higher risk of transmitting diseases to human beings are not allowed to be kept within the facility.

3. All pet animals must be in good health.

4. The health care facility shall ensure that pets are examined and receive any necessary immunizations or treatments in accordance with a veterinarian's recommendations.

5. A copy of the veterinarian's recommendations as well as records of all examinations, treatments, and immunizations shall be retained in the health care facility.

6. Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets kept within or on the premises of the facility.

7. The health care facility shall ensure that no pet creates a nuisance or otherwise jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents, or staff.

8. A facility employee shall be designated as being responsible for the care of all pet animals and for ensuring the cleanliness and maintenance of cages, tanks, and other areas used to house pets.

9. Except for guide dogs accompanying a blind or deaf individual, pets shall not be permitted in areas where food is prepared, served, or stored; in dishwashing areas; dish storage areas; in medication storage areas; in clean or sterile supply storage areas; in nurses' stations; or in any other areas where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety, and well-being of patients or residents.

Relettering. Reletter 7 MCAR S 1.046 (a)-(f) as A.-F. Reletter 7 MCAR S 1.046 (h)-(l) as H.-L. Reletter 7 MCAR S 1.053 (a)-(e) as A.-E. Reletter 7 MCAR S 1.053 (g)-(m) as G.-M. Reletter 7 MCAR S 1.392 (c)(1)-(2) as C.1.-2. Reletter 7 MCAR S 1.392 (d)-(e) as D.-E. Reletter 7 MCAR S 1.392 (f)(1)-(3) as F.1.-3. Reletter 7 MCAR S 1.392 (g)(1)-(2) as G.1.-2. Reletter 7 MCAR S 1.392 (h)-(i) as H.-I. Reletter 7 MCAR S 1.392 (j)(1)-(4) as J.1.-4. Reletter 7 MCAR S 1.392 (k)(1)-(4) as K.1.-4. Reletter 7 MCAR S 1.392 (l) as L.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities: Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes: a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules: and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Jon L. Lunde, duly appointed Hearing Examiner, at 9:00 a.m. on Thursday, October 28, 1982, in room 83 of the State Office Building, 435 Park Street, Saint Paul, Minnesota, pursuant to a Notice of Hearing dated September 13, 1982. This was a rulemaking proceeding conducted pursuant to Minn. Stat. Ch. 14 to determine whether the Commissioner of Health (hereinafter the "Commissioner") has authority to adopt the rules proposed and whether they are necessary and reasonable and may be adopted. The Chief Hearing Examiner extended the due date for this Report to December 23, 1982, under Minn. Stat. §14.15, subd. 2.

John A. Breviu, Special Assistant Attorney General, 136 University Park Plaza Building, 2829 University Avenue Southeast, Minneapolis, Minnesota 55414, appeared as counsel for the Minnesota Department of Health. Also appearing on behalf of the Department were H. Michael Tripple, Assistant Section Chief of the Health Systems Division, and Kent Peterson, Chief of the Planning and Resources Control Section. Approximately 75 persons attended the hearing and 59 of them signed the hearing register. The hearing continued throughout the morning and until all persons present had an opportunity to be heard. After the hearing, but before the expiration of the 20-day comment period authorized by the Hearing Examiner, 15 timely public comments

and one comment from the Department of Health (hereinafter the "Department") were filed with the Office of Administrative Hearings.

After giving interested persons an opportunity to present written and oral information, statements and arguments, having heard all of the testimony, having considered all the evidence adduced and upon the records, files and proceedings herein, and all applicable statutory standards and criteria, and having confirmed the need for and the reasonableness of the above rules, the Commissioner makes the following:

FINDINGS OF FACT

Procedural Requirements and Introduction

1. The Commissioner adopts as her own Findings #1-6 as contained on pages 2-3 of the Report of the Hearing Examiner, dated December 23, 1982, (HLTH-83-005-JL) hereinafter referred to as the Report. A copy of the Report is attached hereto and made a part hereof.

7 MCAR §1.042 Pet Animals in Health Care Facilities

2. The Commissioner adopts as her own Findings #7-9 as contained on pages 3-5 of the Report.

3. In Finding #10, the Examiner stated that the definition of "facility" contained in 7 MCAR §1.042 A. was inconsistent with current law since the reference to Minn. Stat. §144.50 did not incorporate the reference to the 1978 edition of Minnesota Statutes. The Department's Statement of Need and Reasonableness (SONR) on page 10 quoted the provisions of Minn. Stat. §144.573 as that version was reported in the 1979 Session Laws. Since the current edition of Minnesota Statutes in effect at the time of the enactment of the law was the 1978 edition, the session law referred to that specific edition. However, when the pet law was codified in the 1980 edition of the statutes the reference to the 1978 edition was eliminated. The Department should have used the statute and not the session law language in the SONR. The Department has not accepted the Examiner's recommendation to amend the definition

of "facility" to include the reference to the 1978 edition of Minnesota Statutes.

4. In Finding #11, the Examiner found that the failure to include a definition of the word "pet" constituted a substantive violation of law since the rule did not specify the types of animals that will be covered. The Examiner required that the Department either develop a definition of the term "pet" or otherwise clarify the scope of the rule particularly in relation to the keeping of fish. In his finding, the Examiner referenced a number of dictionary definitions of the term "pet"; but did not suggest a recommended definition. The Department does not believe that the development of a specific definition of this term is necessary. The Department intentionally avoided any listing of the types of pet animals that could be retained in the facility based on our belief that this determination should be made at the facility level. The Examiner was especially concerned as to the applicability of the rule to the keeping of fish within a health care facility. As noted in the Department's post-hearing comments, the keeping of fish was not intended to be covered by this rule. However, to clarify the applicability of the rule, the Department will amend the rule to indicate that the condition section does not apply to the keeping of fish.

5. The Commissioner adopts as her own Findings #12-14 as contained on pages 6-7 of the Report.

6. The Legal Advocacy for Older Americans Project requested that a procedure be included in the rules which would require a health care facility to develop a procedure governing the removal of pet animals from the facility. The Department believes that it is not necessary to include such a requirement in the rules. The rules specifically hold the facility responsible for any pet allowed in the facility. This provision, in conjuntion with the optional nature of the rule, clearly establishes that the facility administration must ensure that pets do not jeopardize the residents or patients in any way. The inclusion of a formal procedure governing the removal of pets would only confuse the facility's ultimate responsibility in this regard. The

Department also believes that situations which would require the removal of pets from a facility would not occur with any frequency. The rules require that the facility carefully plan and develop procedures prior to allowing pets on the premises and this planning process should reduce the number of situations where pets might have to be subsequently removed from the facility. This planning process does provide protection to residents and ensures that their needs and concerns are evaluated prior to allowing pets in the facility. It should also be noted that if a situation dictates the removal of a pet from a facility this would presumably be based on the risk that a pet presents to the facility population. Requiring the facility to follow a "formal" removal procedure would only constitute a delay and continue to place residents at risk.

It should be noted that Minn. Stat. §144A.13 requires that a nursing home establish a mechanism to respond to residents' complaints. While this mechanism does not necessarily provide for a hearing prior to the removal of a pet. the nursing home resident does have a mechanism available to review such a decision.

7. The Commissioner adopts as her own Finding #16 as contained on pages 8-9 of the Report.

8. In Finding #17, the Examiner found that the rule prohibiting pet animals from kitchen areas is necessary and reasonable. However, the Examiner did request that the Department reconsider this provision as it would relate to the keeping of pets in supervised living facilities with 15 beds or less. This issue has been discussed within the Department and it is our position that an amendment to section C.6 which would exempt supervised living facilities with 15 beds or less is appropriate. Therefore, the Department has amended 7 MCAR §1.042 C.6 to exempt supervised living facilities with a licensed bed capacity of 15 beds or less from this requirement.

9. In Finding #18, the Examiner asked the Department to reconsider the provisions of the fourth condition, as amended. That section states that a health care facility shall ensure that no pet jeopardizes the health, safety, comfort, treatment or well-being of the residents, patients or staff. The Examiner asked that the Department consider an additional modification in the rule which would state that the facility shall ensure that no pet "substantially" jeopardizes the interests of patients, residents or staff. The Examiner noted that in any given situation the keeping of a pet may jeopardize the health, comfort or well-being of patients or residents and he felt that the rule was not intended to prohibit any annoyance or every threat no matter how sporadic or minimal in nature it might be. The Department does not believe that it would be appropriate to amend this section. The interpretation of this provision will be an enforcement decision and will depend on the facts of each given situation. While the rule could be subject to varying interpretations, the addition of the concept of "substantial jeopardy" tends to increase the subjective nature of this particular provision. It should be noted that the language of the proposed rule was amended by the Department in its post hearing comments. As initially proposed, the rule stated that the facility should ensure that the keeping of a pet does not "create a nuisance" or otherwise jeopardize the health, safety, comfort, treatment or well-being of the patients, residents or staff. In response to the comments made at the hearing, we recognize that the term "nuisance" was vague and subjective. Therefore, we amended the provision to delete "nuisance" from the rule. The rule should also remain unchanged to ensure that the facility's responsibility to fully protect patients, residents and staff is not diluted. The addition of the term "substantial" could possibly allow the facility to have too much leeway in controlling pets kept on the premises. If amended, the rule would seem to imply that minor problems or inconveniences can be tolerated and that the facility need only be concerned in those situations where a life threatening situation occurs.

7 MCAR §1.043 Preventing the Abuse or Neglect of Vulnerable Adults

10. The provisions of Minn. Stat. §626.557 were amended during the 1983 legislative session. Since those amendments will require additional modifications in the proposed rule, the Department has decided to withdraw the proposed rule at this time.

7 MCAR §1.044 Licensing of Nursing Homes and Boarding Care Homes

11. The Commissioner adopts as her own Findings #37-40 as contained on page 22 of the Report.

12. In Finding #41, the Examiner stated that the Department was also required to develop the "forms" to be used to process license applications. However, the Examiner made it clear that the failure to include the forms would not otherwise invalidate the provisions of 7 MCAR §1.044 Y. As stated in the SONR, the Department did not believe that it would be necessary to promulgate the forms in rule since the forms would contain only the information required by statute. However, to meet the Examiner's objections, the Department has amended the rule by adding a new section which identifies the information to be contained on the license applications. While the proposed rule does not describe the "format" to be used, the Department believes that the new section fully conforms to the statutory mandate in Minn. Stat. §144A.03 subd. 1 and 144A.05. This new section will provide clear and sufficient notice to nursing home licensees as to the information that will be required to be submitted to the Department. The rule will limit the Department to seeking only this information on the license application. Since the information to be provided is a significant increase in the amount of information presently contained on the current license forms, the Department believes that it is necessary to retain the flexibility to actually design the format of the license application in a manner that will be easily understood and completed. The Department believes that experience with the collection and review of this information will possibly necessitate changes in "format", not content, in the future. The new section will limit and describe the type of information that will be on the form without requiring that the Department proceed with rule-making each time a format change is necessary.

13. It is the Department's position that the proposed amendment does not constitute a substantive change in the rules since the information contained in this section derived directly from information required to be obtained by statute. The statutory basis for the information to be contained in the form is noted below in brackets. The proposed amendment is as follows:

> 13. License application forms. The department shall furnish the applicant or the licensee with the necessary forms to obtain initial or renewed licensure or to request relicensure of the nursing home after a transfer of interest. The license forms must require that the following information be provided:
>
> a. General informatioon.
>
> (1) The name, address and telephone number of the nursing home; [Minn. Stat. §144A.02 - .03]
>
> (2) The name of the county in which the nursing home is located; [Minn. Stat. §144A.02 - .03]
>
> (3) The legal property description of the land upon which the nursing home is located; [Minn. Stat. §144A.02 - .03]
>
> (4) The licensed bed capacity; [Minn. Stat. §144A.02]
>
> (5) The designation of the classification of ownership, e.g., state, county, city, city/county, hospital district, federal, corporation, nonprofit corporation, partnership, sole proprietorship or other entity; [Not specifically required by statute; however, this information is necessary for statistical purposes]
>
> (6) The name and address of the controlling person or managerial employee who shall be responsible for dealing with the Commissioner of Health on all matters relating to the nursing home license and on whom personal service of all notices and orders shall be served; [Minn. Stat. §144A.03, subd 2]
>
> (7) The location and square footage of the floor space constituting the facility; and [Minn. Stat. §144A.02]
>
> (8) For the purposes of license renewal, an indication of compliance with the provisions regarding the submission of financial statements to the Department of Public Welfare. [Minn. Stat. §144A.05]
>
> b. Disclosure of controlling persons. Minnesota Statutes section 144A.03 requires that the nursing home license application identify the name and address of all controlling persons of the nursing home, as defined in Minnesota Statutes section 144A.01, subd. 4. [Minn. Stat. §144A.03]
>
> (1) Administrator and license.
>
> (a) The name and address of the administrator;

(b) The name and address of the licensee of the nursing home;

(c) If the licensee is a public body or governmental agency, the name and address of all individuals on the governing body who are officers or directors of the nursing home or who receive any remuneration from the nursing home;

(d) If the licensee is a partnership, the name and address of each general partner;

(e) If the licensee is a corporation, the name, address and position of each individual who is an officer or director;

(f) If the licensee is a business association, the name and address of each individual who is an officer and director of the association;

(2) Administrator and licensee - previous work experience. Specify the previous work experience in Minnesota nursing homes during the past two years for each individual identified under section b.(1)(a)-(f) above. [Minn. Stat. §144A.04, subd 4]

(3) Ownership interests - licensee [Minn. Stat. §144A.03 and 144A.01, subd 4]

(a) If the licensee is a partnership, the name and address of every individual, partnership, corporation, or other business association having an ownership interest in the partnership;

(b) If the licensee is a corporation, the name and address of every individual, partnership, corporation or other business association having an ownership interest in the corporation;

(c) If the licensee is a business association, the name and address of every individual, partnership, corporation or business association having an ownership interest in the business association.

(4) Ownership interest - land, structure or facilities comprising the nursing home. The name and address of each individual, partnership, corporation, or other business association having an ownership interest in one or more of the following: [Minn. Stat. §144A.03 and Minn. Stat. §144A.01, subd 4, clause (b),(c),(d) and (e)]

(a) The land on which the nursing home is located;

(b) The structure(s) in which the nursing home is located;

(c) Any mortgage, contract for deed or other obligation secured in whole or in part by the land or structure comprising the nursing home; or

(d) Any lease or sub-lease of the land, structure or facilities comprising the nursing home.

(5) Ownership interests - controlling persons. If a partnership, corporation or other entity or association has been identified in response to sections b.(3). - (4)., above, the following information must be provided: [Minn. Stat. §144A.03 and Minn. Stat. §144A.01, subd 4, clause (a)]

(a) If a partnership is identified, the name and address of all partners;

(b) If a corporation is identified, the name and address of all individuals, partnerships, corporations or other business associations having an ownership interest in that corporation;

(c) If a business association is identified: the name and address of all individuals, partnerships, corporations or business associations having an ownership interest in that association.

If a partnership, corporation or other business association is identified in response to section b.(5)., the name and address of the individuals, partnerships, corporations or other business associations having an ownership interest therein shall be provided. The disclosure of ownership interests in all subsequently identified partnerships, corporations or business associations shall continue until only natural persons are disclosed. [Once a partnership, corporation, etc., has been identified as a controlling person, the definition of "controlling person" requires that ownership in that controlling person be disclosed. Minn. Stat. §144A.01, subd 4, clause (a)]

(6) Ownership interests - beneficial interests. For each individual identified in response to the questions above, the following information must be provided.

(a) The name and address of any individual who has the right to acquire that person's ownership interest through the exercise of an option or similar right; and

(b) The name and address of that person's spouse or relative or a relative of spouse residing in the home of that person who has the right to control the ownership interest such as voting rights or the right to share in the income from that interest. [The definition of controlling person includes individuals who own direct or beneficial interests. The description of beneficial interest was taken from the provisions of Minn. Stat. §80B.02]

c. Disclosure of managerial employees - Provide the name and address of all assistant administrators and service directors and indicate their previous work experience in Minnesota nursing homes during the past two years. [Minn. Stat. §144A.04, subd 6]

14. The Commissioner adopts as her own Findings #42-43 as contained on page 24 of the Report.

15. The Commissioner adopts as her own Finding #44 as contained on pages 24-25 of the Report. 7 MCAR §1.044 Y.2. has been amended by the addition of a final sentence which reads:

> The department shall issue a renewed license if a nursing home continues to satisfy the requirements, standards and conditions prescribed by Minn. Stat. §§144A.01 to 144A.17 and 7 MCAR §§1.044 to 1.072.

16. The Commissioner adopts as her own Findings #45-46 as contained on pages 25-26 of the Report.

17. The Commisioner adopts as her own Findings #47-49 as contained on pages 26-27 of the Report. Section Y.4. has been amended to specifically indicate that a current license will expire at the time of relicensure. Section Y.5. already indicates that the Department will relicense a nursing home as of the date the new licensee complies with the provisions of the statute and rules. The amendment to Y.4. will provide further clarification of this fact. In Finding #49 on pages 26-27 of the Report, the Examiner suggested that the variance and waiver provisions contained in 7 MCAR §1.044 X. be referenced in section Y.5. The Department does not believe that the reference is necessary.

18. The Commmissioner adopts as her own Findings #50-51 as contained on pages 27-28 of the Report. Y.6. has been amended by the inclusion of criteria governing the approval of license amendments as requested by the Examiner. The second to last sentence will read:

> The department shall amend the license as of the date the department determines that the nursing home is in compliance with Minnesota Statutes, sections 144A.02 to 144A.16 and 7 MCAR §§1.044-1.072, unless a later date is requested by the licensee.

19. The Commissioner adopts as her own Findings #52-54 as contained on pages 29-30 of the Report with the following exceptions. In Finding #54, the Examiner's suggested amendment to section Y.7. retained the Department's use of the word "may". The

Department has substituted the mandatory "shall" for "may". The Department believes that this will specifically establish parameters on the Department's discretion. Section Y.7. has been amended to eliminate the Examiner's objections.

20. The Commisioner adopts as her own that portion of Finding #55 which amends the proposed language of section Y.8. and adds an additional factor, Y.8.f. to the rule. These amendments were requested by the Examiner to eliminate his concerns as to the amount of discretion provided to the Department in implementing this section. The Examiner also requested that a new section be added which would specify the facts that must exist before the Department could impose a condition or limitation. The Department has amended section Y.7. to indicate that the imposition of a condition or limitation is mandatory when necessary to assure compliance with the laws or to protect the residents in the nursing home. Prior to the amendment, the imposition of a condition or limitation was permissive. Since the discretion to impose or not impose a condition or limitation has been eliminated, the Examiner's recommended language is not now necessary.

21. In Finding #56, the Examiner stated that the discretion granted to the Department in section Y.9. was too broad and required that the lead-in sentence be amended in a manner to reduce this discretion. The Department has accepted the Examiner's rationale, but has further amended this sentence by substituting "shall" for "may".

22. In Finding #57, the Examiner stated that the Department was required either to specify the period of time to be provided for correction or to delete this requirement from the rule. Since it is now no longer necessary to establish time periods for correction in rule, the Department has deleted this particular provision from the rule. Minn. Laws, 1983, Chapter 199, Sec. 2. With respect to the amount of an assessment for noncompliance with a correction order, the Department does not believe that it is necessary to alter the amount, $250, already contained in section Y.11. As noted in the SONR at pages 91-92, the Department, which is required to establish fines by rule, has determined that the $250 per day assessment is valid and appropriate. The Department continues to assert that these reasons are sufficient to justify the need for and reasonableness of this fine amount.

23. In Finding #58, the Examiner recommended that the Department delete the last sentence of Y.12. which states that the applicant (for initial licensure) has the burden of establishing that an unrestricted license can be issued in an appeal of the Department's decision to issue a conditional or limited license. The Department believes that this rule is necessary to clarify the burden of proof in an appeal situation. The allocation of the burden of proof in an appeal proceeding relating to waivers and variances has been previously accepted by the Office of Administrative Hearings and the Attorney General's office. That rule, 7 MCAR §1.044 X.7., states that the applicant for a waiver or variance has the burden of proving that it meets the necessary criteria, except in a proceeding challenging the revocation of a waiver or variance. See the Report of the Hearing Examiner, dated May 20, 1980, at page 19. (HLTH-80-040-GB)

24. The Commissioner adopts as her own Finding #59 on page 33 of the Report.

25. The proposed rule, 7 MCAR §1.046 M. has been withdrawn. See Commissioner's Finding #10, above.

26. The Commissioner adopts as her own Findings #61-63 as contained on pages 33-34 of the Report.

27. The Commissioner also accepts as her own Finding #64 as contained on pages 34-35 of the Report. The Department does want to clarify its position on comments relating to proposed fine levels. It has always been the Department's position that any proposed rule is subject to comment and discussion, including the levels of proposed fines. However, where changes in existing rules were not proposed, it is the Department's position that those rules are not subject to discussion or change at a rule making hearing.

28. The Commissioner adopts as her own Finding #65 as contained on page 35 of the Report.

29. The Commissioner adopts as her own that portion of Finding #66 as contained on page 35 of the Report relating to 7 MCAR §1.057 C.1.n. and o. The Department does not accept the Examiner's position that there is no authority to issue correction orders or penalty assessments to supervised living facilities or boarding care homes for violations of the

Vulnerable Adult Abuse Law. However, since that rule is being withdrawn at this time, the fines for that rule are also being withdrawn.

30. The Commissioner adopts as her own Findings #67-69 as contained on pages 36-37 of the Report. Fines relating to the Vulnerable Adult Abuse Act are being withdrawn.

31. Since the requirement mandating that allowable periods of time for correction be specified in rule has been deleted from Minn. Stat. §144A.10, subd. 4, the Department has withdrawn the proposed amendments to 7 MCAR §1.058. See Minn. Laws, 1983, Chapter 199, Section 2.

32. Since the rules implementing the Vulnerable Adult Abuse Reporting Act have been withdrawn, the proposed rule, 7 MCAR §1.392 N. and those portions of 7 MCAR §1.392 O. imposing fines for a violation of these rules are also being withdrawn.

33. The Commissioner adopts as her own Finding #74 as contained on page 38 of the Report.

Based upon the foregoing Findings of Fact, the Commissioner makes the following:

CONCLUSIONS

1. That the Department gave proper notice of the hearing in this matter.

2. That the Department has fulfilled the procedural requirements of Minn. Stat. Chapter 14 (1982) and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule.

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §14.14, subd. 2.

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register and that the amendments and additions to the proposed rule incorporated as the result of the recommendations of the Hearing Examiner and noted in the Findings above do not result

in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. §14.14, subd. 3 and 9 MCAR §§2.110A A. and 2.111 (1980 Ed.).

6. That the rules be amended in accordance with the Findings made above.

7. That any Findings which might properly be termed conclusions and any conclusions which might properly be termed Findings are hereby adopted as such.

Based upon the foregoing Findings of Fact and Conclusions, the Commissioner issues the following:

ORDER

IT IS HEREBY ORDERED:

That the attached rule relating to the keeping of pet animals in health care facilities; amendments to the rules relating to the operation and licensing of nursing homes and boarding care homes; the rule relating to the dual option provisions of the health maintenance organization rules; and a rule providing for the issuance of fines to supervised living facilities are adopted the 6 day of June, 1983 pursuant to the authority vested in me by law.

Dated: June 6, 1983

Sr Mary Madonna Ashton

Sister Mary Madonna Ashton
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing The Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the issuance of Fines to Supervised Living Facilities.

AMENDMENT TO THE COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES

On June 6, 1983, an order adopting the above-entitled rules, with supporting findings of fact and conclusions was signed by the Commissioner of Health. In accordance with the provisions of Minn. Stat. §14.16, that order was submitted to the Chief Hearing Examiner for his review of the modifications in the rules. In an order dated June 8, 1983, the Chief Hearing Examiner determined that the rules could not be approved until the Department deleted the last sentence of 7 MCAR §1.044 Y.12. That sentence relates to the allocation of the burden of proof in a proceeding challenging the Department's decision to issue a conditional or limited license and reads as follows:

7 MCAR §1.044 Y.12

> ...Except in a proceeding challenging the decision to condition or limit a current or renewal license, the applicant has the burden of proving that an unrestricted license shall be issued.

It is the Department's position that this portion of the rule correctly states the law relating to the allocation of the burden of proof in contested case proceedings. The purpose of the sentence in question was solely to provide notice to parties in a contested case proceeding as to the allocation of the burden of proof and that the rule is in accordance with general principles of law and in accord with the Rules of the Hearing Examiner. See In re Application of the City of White Bear Lake,

247 NW2d 901 (1976) and 9 MCAR §2.217 C.5. However, the Department will amend the rule to comply with the Chief Hearing Examiner's objection by deletion of the last sentence of 7 MCAR §1.044 Y.12. The deletion, however, would not change the allocation of the burden of proof applicable to these proceedings as specified in the above authorities.

It is also necessary to amend another section of the rules to correspond with technical changes made by the Revisor of Statutes Office. The first change is in 7 MCAR §1.044 Y.13, which relates to the license application forms. The Revisor's Office requested that the second sentence of section b. be amended as follows:

> 7 MCAR §1.044 Y.13 License application forms.
>
> ...The license forms must require that the following information be provided:
>
> ...
>
> b. Disclosure of controlling persons. In accordance with Minnesota Statutes section 144A.03 which requires that the nursing home license application identify the name and address of all controlling persons of the nursing home, as defined in Minnesota Statutes, section 144A.01, subdivision 4:...

The second change is found in 7 MCAR §1.057 C., the schedule of fines for baording care homes. As a result of the withdrawal of the Vulnerable Adult Abuse rule, a number of sections from this part of the fine schedule were deleted. Only section C.1.d.-g. were deleted and the relettering should have started with section 1.h and not 1.i as shown in the rules. Accordingly, 7 MCAR §1.057C. will be changed to reflect the proper lettering of the subsections.

The above amendments shall be attached to and made part of the Commissioner's Findings of Fact, Conclusions and Order Adopting Rules, dated and signed on June 6, 1983.

Dated: June 9, 1983

for Mary Madonna Ashton
Sister Mary Madonna Ashton
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing The Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the issuance of Fines to Supervised Living Facilities.

SECOND AMENDMENT TO THE COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES

On June 9, 1983, the complete record for the above-entitled rules was submitted to the Office of the Attorney General for review pursuant to the provisions of Minnesota Statutes, section 14.16 (1982). During the course of that review, an incorrect citation to the provisions of the Administrative Procedures Act (APA) was noted in 7 MCAR §1.044 Y.12. That rule referenced "Minnesota Statutes, sections 15.0418 to 15.0426" when the correct reference, as the result of the recodification of the APA, should have been "Minnesota Statutes, sections 14.57 to 14.70." It is the Department's position that this change does not constitute a substantive change in the rule. Therefore, the provisions of 7 MCAR §1.044 Y.12 will be amended by deleting the reference to "Minnesota Statutes, sections 15.0418 to 15.0426" and inserting "Minnesota Statutes, sections 14.57 to 14.70."

This amendment shall be attached to and made part of the Commissioner's Findings of Fact, Conclusions and Order Adopting Rules dated and signed on June 6, 1983 as amended on June 9, 1983.

Dated: June 15, 1983

Sr Mary Madonna Ashton

Sister Mary Madonna Ashton
Commissioner of Health

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ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

Agency Exh. No. 3
File No. HLTH-83-005-JL
Date 10-28-82

NOTICE OF HEARING

A public hearing concerning the above-entitled matter will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota, on October 28, 1982, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone: (612) 341-7645 either before the hearing or before the close of the hearing record which shall remain open at least five working days after the hearing is adjourned. The Hearing Examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least two (2) 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 in behalf of such interests. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR (Minnesota Code of Agency Rules) §§ 2.101-2.113. If you have any questions about the procedure, call or write the Hearing Examiner.

The statutory authority for the Commissioner of Health to adopt these rules is contained in the following provisions: Minn. Stat. § 144.573 and § 144A.30 relating to the keeping of pet animals in health care facilities; Minn. Stat. § 626.557 relating to the reporting of abuse and neglect of vulnerable adults receiving services from facilities licensed or certified by the Department of Health; Minn. Stat. § 144.56 and Minn. Stat. §§ 144.02-.07 relating to the amendment of the licensure rules for nursing homes and boarding care homes; Minn. Stat. § 144.56 and Minn. Stat. § 144A.08 which provides the Commissioner a general grant of authority to promulgate rules relating to the construction, maintenance, equipment, operation and licensing of boarding care homes, supervised living facilities and nursing homes; Minn. Stat. § 62E.17 relating to the development of rules governing the operation of Health Maintenance Organizations; and, Minn. Stat. § 144.653 and § 144A.10 which authorizes the Commissioner to develop a schedule of fines for a facility's non-compliance with correction orders and to develop a schedule of allowable times for correction.

The proposed rules address the following subjects:

1. The conditions governing the keeping of pet animals on the premises of a health care facility defined as a hospital, nursing home, boarding care home or supervised living facility.

2. The implementation of the provisions of Minn. Stat. § 626.557, the Vulnerable Adult Abuse Reporting Act. These rules require the development of a facility abuse plan, individual abuse plans and the establishment of an internal reporting mechanism. The rule is applicable to all facilities licensed or certified by the Department.

3. The provisions governing the issuance of licenses to nursing homes including initial licenses, renewal licenses and transfers of interests. The rules also address license amendments and attaching conditions or limitations to a license. The rules

implement the provisions of Minn. Stat. §§ 144A.02-.07.

4. The amendment to a provision of 7 MCAR § 1.048A.8.c.(7) modifying the requirement that nursing homes and boarding care homes provide on a daily basis a period of time during which a resident can withdraw personal funds held by the facility.

5. The training of unlicensed nursing personnel who administer medications in nursing homes or boarding care homes.

6. The amendment of the schedule of fines for non-compliance with correction orders issued to nursing homes and boarding care homes and the amendment of the schedule of allowable time periods for compliance with a correction order. These amendments address the rules being proposed at this hearing.

7. The amendment to 7 MCAR § 1.377B, relating to the dual option provisions of the Health Maintenance Organization rules.

8. The establishment of a schedule of fines for non-compliance with correction orders issued to a supervised living facility. The schedule of fines addresses only the rules relating to pets and the Vulnerable Adult Abuse Reporting Act.

A free copy of the rules may be obtained by contacting Michael Tripple, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, telephone: (612) 296-5448. Additional copies will be available at the hearing. If you have any questions about the rules, please contact Mr. Tripple.

Twenty-five (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 Administrative Hearings. This Statement of Need and Reasonableness will include all of the evidence which the agency intends to present at the hearing to justify both the need for and the reasonableness of the proposed rule. The agency intends to present only a summary of the Statement of Need and Reasonableness at the hearing; however, additional evidence may be submitted in response to questions raised by interested persons. You are therefore urged to both review the Statement of Need and Reasonableness before the hearing and to attend the hearing. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge. Additional copies will be available at the hearing.

In accordance with the provisions of Minn. Stat. § 144A.29, subdivision 4, a Statement of Anticipated Costs and Benefits will be filed along with the Statement of Need and Reasonableness. The adoption of the proposed rules and rule amendments will not require the expenditure of public funds totaling or exceeding $100,000 by local public bodies in either of the two years immediately following the adoption of the rules or amendments.

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 notification by sending a written request to the Hearing Examiner, in the case of the Hearing Examiner's Report, or to Mr. Tripple, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch.10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd.11, (1980) as any individual:

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

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

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

Dated: September 13, 1982

STATE OF MINNESOTA
COMMISSIONER OF HEALTH

for GEORGE R. PETTERSEN, M.D.
Commissioner of Health

RECEIVED
AUG 25 1982
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities

ORDER FOR HEARING

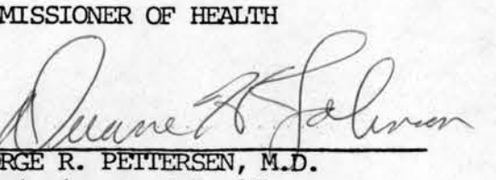
To effectively implement the provisions of the statutes relating to the following: the keeping of pets in health care facilities, Minn. Stat. § 144.573 and § 144A.30; the reporting of abuse or neglect of vulnerable adults, Minn. Stat. § 626.557; the licensing and operation of nursing homes and boarding care homes and supervised living facilities, Minn. Stat. §§ 144.50 - .56 and §§ 144A.01 - .17; and the regulation of Health Maintenance Organizations, Minn. Stat. § 62E.17, the Minnesota Commissioner of Health deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in him by the above-referenced statutes.

NOW, THEREFORE, IT IS ORDERED this 23 day of August, 1982, that a public hearing on the proposed rules captioned above be held in Room 83, State Office Building, 435 Park Street, Saint Paul, Minnesota, on October 28, 1982, commencing at 9:00 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Commissioner of Health for that purpose.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH



for GEORGE R. PETTERSEN, M.D.
Commissioner of Health

RECEIVED
OCT 1992
ADMINISTRATIVE HEARINGS

2. Rules relating to the transfer of patient's x-ray records. Contact: Dr. Ellen Z. Filer
Assistant Commissioner for Programs
Phone: (612) 296-5391

3. Rules relating to the nature and requirements of all general formal and informal procedures (as distinguished from procedures for specific programs which will be promulgated as separate rules) related to the administration of official duties of the State Department of Health and the State Board of Health which directly affect the rights of or procedures available to the public.
Contact: Michael Moen
Phone: (612) 296-5463

Any materials submitted shall be reviewed and considered by the Department of Health during the preparation of the proposed rules. Notice of the public hearing on the proposed rules shall be published in the State Register and given to all interested parties who have registered with the Secretary of State's Office in accordance with the provisions of the Administrative Procedure Act.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at Room 401, State Office Building, Saint Paul, Minnesota 55155.

Warren R. Lawson, M.D.
Secretary and Executive Officer

Department of Health
State Board of Health
Amendments to Rules Regulating the Operations of Health Facilities

Notice of Intent to Solicit Outside Opinion

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1975) that the Minnesota State Board of Health will propose the adoption of new rules and the amendment and revision of existing rules.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of the rules noted below should address their comments (either written or oral) to the Minnesota Department of Health, Division of Health Facilities, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, by writing or calling the persons designated. Evidence submitted for consideration should be pertinent to the matter at hand. Written material received by the Department of Health will become part of the hearing record

1. Rules implementing the provisions of Laws of 1976, ch. 173, relating to the licensing and regulation of nursing homes. Contact: H. Michael Tripple
Phone: (612) 296-5418

2. Proposed amendments to MHD 391-410, Supervised Living Facilities, and to MHD 411-430, Out-patient Surgical Centers, with respect to the establishment of levels of assessments for violations of rules pursuant to Minn. Stat. § 144.653. Contact: H. Michael Tripple
Phone: (612) 296-5418

3. Rules relating to implementation of hospital rate review by the State Board of Health to include financial reporting requirements, rate review procedures, standards for approval of voluntary rate review procedures and establishment of a filing fee to be charged for submission of hospital rate modifications to the Board.
Contact: Kent E. Peterson
Phone: (612) 296-5365

4. Rules implementing Laws of 1976, ch. 325, relating to complaint or grievance mechanisms in hospitals, outpatient surgery centers, and health maintenance organizations. Contact: Janet G. Brodahl
Phone: (612) 296-5441

5. Rules relating to the establishment and approval of education courses in the health related subject of administration of medications by unlicensed personnel in health facilities. Contact: Robert A. Hamilton
Phone: (612) 296-5487

6. Proposed amendments to MHD 44 to 71, rules for the construction, equipment, maintenance, operation and licensing of boarding care homes, for establishing standards

or noncertified boarding care homes, and for establishment of levels of assessments for violation of the rules.
Contact: H. Michael Tripple
Phone: (612) 296-5418

7. Proposed amendments and rewriting of MHD 74-71, rules for the construction, equipment, maintenance, operation and licensing of nursing homes and boarding care homes, in addition to establishing standards for certified boarding care homes, and establishing levels of assessments for violations of the rules.
Contact: H. Michael Tripple
Phone (612) 296-5418

8. Rules relating to procedures for review of assessment hearings of all health care facilities.
Contact: H. Michael Tripple
Phone: (612) 296-5418

9. Proposed amendments to and rewriting of MHD 76-116, rules for the construction, equipment, maintenance, operation and licensing of hospitals, and for the establishment of levels of assessments for violations of the rules.
Contact: Daniel McInerney
Phone: (612) 296-5511

10. Rules relating to the award of emergency medical services grants. Contact: Bernard Webber
Phone: (612) 296-5281

11. Proposed amendments to MHD 391-410, Supervised Living Facilities, to include but not be limited to adding detoxification centers as a facility covered by these rules. Contact: Hans Larsen
Phone: (612) 296-5451

12. Rules relating to the "reasonable volume of uncompensated care" and the "community services" requirements of the hospital survey and construction (Hill-Burton) program.
Contact: Robert Manske
Phone: (612) 296-5442

Any materials submitted shall be reviewed and considered by the Department of Health during the preparation of the proposed rules. Notice of the public hearing on the proposed rules shall be published in the State Register and given to all interested parties who have registered with the Secretary of State's Office in accordance with the provisions of the Administrative Procedure Act.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at Room 401, State Office Building, Saint Paul, Minnesota 55155.

Warren R. Lawson, M.D.
Secretary and Executive Officer

Minnesota Housing Finance Agency

American Indian Housing

Notice of Extension of Emergency Rules

Notice is hereby given that the Minnesota Housing Finance Agency's Emergency Rules Governing American Indian Housing, published at 1 S. R. 208-09, have been extended, as published, for an additional 75 day period, dated from the date of the order readopting the said rules and the refiling of said rules with the Secretary of State, October 26, 1976, pursuant to authority vested in me by the Board of the Agency, pursuant to Resolution of the Board, under the provisions of Laws of 1976, ch. 254, § 9 and as authorized by Minn. Stat. § 15.0412, subd. 5.

James F. Dlugosch
Executive Director

Pollution Control Agency

Proposed Rules Governing Installation and Operation of Individual Sewage Treatment Systems

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) has begun consideration of proposed

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

RECEIVED
OCT 1 1982
ADMINISTRATIVE HEARINGS

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

AFFIDAVIT
OF MAILING

Agency Exh. No. #5
File No. HLTH-83-005-JL
Date 10-28-82

Paula Kopka, being first duly sworn, deposes and says:

1. That on the 16th day of September, 1982, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of Agency's Mailing List attached and made a part hereof as Exhibit A; and

2. That on the 17th day of September, 1982, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing and proposed rules by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof; and

3. That on the 16th day of September, 1982, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on Exhibit C, attached and made a part hereof.

Paula Kopka

Subscribed and sworn to before
me this 17 day of September, 1982

FREDERICK L. KING
WASHINGTON COUNTY, MINN.
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES FEB. 22, 1984

Appendix A

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

CERTIFICATE OF AGENCY'S MAILING LIST

I, Lora Erickson, secretary to the Commissioner of Health, hereby certify that I am responsible for maintaining the list of all persons who register with the Department of Health for the purpose of receiving notice of rule hearings on proposed rules and amendments thereto on the subject captioned above pursuant to Minn. Stat. §§ 15.0412, subd. 4, and further certify that the list attached and made a part hereof constitutes the complete list of the persons, associations, and other interested groups who as of 10:20 AM, this 14th day of September, 1982, have so registered with the Department.

COMMISSIONER OF HEALTH

GEORGE R. PETTERSEN, MD

By Lora L. Erickson

Michael J. Ahern
Moss, Flaherty, Clarkson & Fletcher
1200 Pillsbury Center
Minneapolis, Minnesota 55402

Albert Lea Health Department
221 E. Clark
Albert Lea, Minnesota 56007

Sue Aldean-Linder, Exec. Dir.
Ramsey County Medical Society
908 American National Bank Building
101 East 5th Street
St. Paul, Minnesota 55101

John H. Allers
7501 2nd Avenue South
Richfield, Minnesota 55423

Alternatives for Autistic People, Inc.
3725 - 47th Ave. So.
Minneapolis, Minnesota 55406

American Lung Association
Barbara L. Hughes
1829 Portland Ave. S.
Minneapolis, Minnesota 55404

Anderson Drilling, Inc.
4163 Seville Road
Duluth, Minnesota 55811

Alice Anderson
175 So Western
St. Paul, Minnesota 55102

Curtis Anderson, Supervising San.
St. Louis Co. Health Department
910 South 8½ Street
Virginia, Minnesota 55792

Donna M. Anderson
Community Health Services
Dakota County Government Center
1560 Highway 55
Hastings, Minnesota 55033

Herbert Anderson
418 8th St. So.
Virginia, Minnesota 55792

Allyson Ashley, ACSW
Executive Director
Southwestern Mental Health Center
2 Round Wind Road
Luverne, Minnesota 56156

Association of Residences for
the Retarded in Minnesota
459 Rice Street, Suite 301
St. Paul, Minnesota 55103

Sister Margaret Belanger
Saint Joseph's Hospital
69 West Exchange Street
St. Paul, Minnesota 55102

Beverly Balos
Family & Childrens Service
414 South Eighth Street
Minneapolis, Minnesota 55404

Benes Well Drilling
2214 - 5th Street N.W.
Grand Rapids, Minnesota 55744

R. J. Barto
Midland Glass Company, Inc.
P.O. Box 69
Shakopee, Minnesota 55379

John R. Benitez
4704 Harlan Street - 6th Floor
Denver, Colorado 80212

Thomas W. Bastien
1409 Willow Street
Minneapolis, Minnesota 55403

Jayne Berg
New Connection Prog., Inc.
73 Leech Street
St. Paul, Minnesota 55102

Dean Beaulieu
5th Street and Portland Ave. So.
Minneapolis, Minnesota 55415

Bergerson Caswell
5115 Industrial Street
Maple Plain, Minnesota 55359

Joseph R. Begich
100 North 2nd Street
Eveleth, Minnesota 55734

Berkeley Pump Co.
P.O. Box 32151
Minneapolis, Minnesota 55432

Betts Well Drilling
Route 1 Box 97
Sandstone, Minnesota 55072

James Biggar
205 West Center
Lake City, Minnesota 55041

Bonnie Bilinsky, RS
License and Inspection Department
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55343

Bisson's Well & Pump Company
1955 Shawnee Road
St. Paul, Minnesota 55122

Gerald T. Blaha
457 Goodhue Street
St. Paul, Minnesota 55102

Board of Dentistry
717 S.E. Delaware Suite 338
Minneapolis, Minnesota 55414

Wendy M. Borsheim
Minnesota Retail Merchants Association
180 Metro Square Bldg.
St. Paul, Minnesota 55101

Christine E. Boswell
Assoc. Dir., MARC
2344 Nicollet Ave. So.
Minneapolis, Minnesota 55404

Burdette Boyum
250 So. 4th St., Room 300
Minneapolis, Minnesota 55415

Chester Bradseth
Blackduck Box 35
Blackduck, Minnesota 56630

Philip D. Brick
Pickands Mather & Company
Suite 811 - 202 West Superior Street
Duluth, Minnesota 55802

Briggs & Morgan
Librarian
2200 First National Bank Building
St. Paul, Minnesota 55101

John M. Broeker
2850 Metro Drive - Suite 800
Minneapolis, Minnesota 55420

Fredrik M. Christiansen
Room 911, Capitol Square Building
St. Paul, Minnesota 55101

Richard C. Buske
Minnesota Department of Economic Development
480 Cedar St.
St. Paul, Minnesota 55101

Philip J. Clausen
2307 Standish St.
St. Paul, Minnesota 55108

Cannon Well Drilling, Inc.
Route #1, Box 266A
Cannon Falls, Minnesota 55009

Becky A. Comstock
Dorsey, Windhorst, Hannaford, Whitney & Halladay
2300 First National Bank Building
Minneapolis, Minnesota 55402

Rick Carter
Minnesota Association of Health Care Facilities
2850 Metro Drive, #429
Minneapolis, Minnesota 55420

William Conley
Mental Health Association of Minnesota
6715 Minnetonka Boulevard
Minneapolis, Minnesota 55426

Caio G. Cesolini
American Water Well Drilling
Shooks Rt. Box 27
Northome, Minnesota 56661

Rodney L. Danielson
Carpenters Union #87
411 Main
St. Paul, Minnesota 55102

Chiropractors Association of Minnesota
1803 Wood Lane Drive
Woodbury, Minnesota 55125

Jean Dawson, Editor
The Minnesota Government Report
B-12 Press Room - Capitol
St. Paul, Minnesota 55155

Donald A. Dee, Executive Director
Minnesota State Pharmaceutical Association
Health Associations Center - Suite 326
2221 University Avenue S.E.
Minneapolis, Minnesota 55414

Ben M. Determan
Decatur Pump Company
P.O. Box 431
Decatur, Illinois 62525

Ron DeHollander
Union Carbide
P.O. Box 1029
Grand Junction, Colorado 81502

Developmental Disabilities Planning
Office Director
200 Capitol Square Building
St. Paul, Minnesota 55101

Mr. Rollin Dennistoun
Deputy Commissioner
Department of Agriculture
90 W. Plato Boulevard
St. Paul, Minnesota 55107

Janice M. Devens
Director
Human Service Agency
Wright County Courthouse
Buffalo, Minnesota 55313

Department of Ecology, Licensing of
Well Drillers
Olympia, Washington 98504

John Dlugosch
Thoele Dental Lab
Box 928
St. Cloud, Minnesota 56301

Department of Environmental Resources
Division of Water Supplies
Paul S. Zimmerman
P. O. Box 2357
Harrisburg, Pennsylvania 17120

Donahauer Well & Pump Company
R.R. 2
St. Joseph, Minnesota 56374

Department of Pharmaceutical Services
University of Minnesota Hospitals
Box 611 Mayo
420 Delaware Street S.E.
Minneapolis, Minnesota 55455

Dawn Donsmone
Mental Health Advanced Coalition
265 Fort Road
St. Paul, Minnesota 55102

John E. Drawz
LeFevere, Lefler, Kennedy, O'Brien & Drawz
2000 First Bank Place West
Minneapolis, Minnesota 55402

Edina Health Department
4801 N. 50th St.
Edina, Minnesota 55424

Kent E. Eklund
Minnesota Department of Economic
Development
480 Cedar St.
St. Paul, Minnesota 55101

Energy Reserves Group, Inc.
Attention: R. F. Hemming
1536 Cole Boulevard
Golden, Colorado 80401

Environmental Law Society
William Mitchel College of Law
875 Summit Avenue
St. Paul, Minnesota 55105

Glenn A. Erickson
445 City Hall
St. Paul, Minnesota 55102

Jack V. Everett - Consul. Geologist
10151 North Shore Drive
Duluth, Minnesota 55804

John T. Farmer
Minnesota Manufactured Housing Association
222 E. Little Canada Road
Little Canada, Minnesota 55117

Paul Farseth
11691 Lausing Ave. N.
Stillwater, Minnesota 55082

Roberto M. Federigan, Senior Analyst
State Information Unit -- Room 650
The Bureau of National Affairs, Inc.
1231 25th Street, N.W.
Washington, D.C. 20037

Richard S. Felhaber
W-1080 First National Bank Building
St. Paul, Minnesota 55101

John W. Ferman
Minnesota Pollution Control Agency
1935 W. County Road B-2
Roseville, Minnesota 55113

Sara Ferris/Cystic Fibrosis Foundation
2344 Nicollet, Suite 330
Minneapolis, Minnesota 55404

Conrad M. Fredin
811 First National Bank
Duluth, Minnesota 55802

Marylee Fithian
Oden and Associates
905 Park Avenue So.
Minneapolis, Minnesota 55404

Nelson French
3715 East 26th Street
Minneapolis, Minnesota 55406

Bob Fitzgerald
3007 Lyndale So.
Minneapolis, Minnesota 55408

R. Gary Freund
St. Joseph's Hospital
Pharmacy Department
69 W. Exchange Street
St. Paul, Minnesota 55102

Dr. Robert C. Fox
Metropolitan State University
121 Metro Square Building
7th & Robert Street
St. Paul, Minnesota 55101

Miller A. Friesen
Range Mental Health Center
624 S. 13th Street
Virginia, Minnesota 55792

Jerome E. Franke
271 Griggs-Midway Building
1821 University Avenue
St. Paul, Minnesota 55104

Charles A. Geer
Dorsey, Windhorst, Hannaford, Whitney
& Halladay
2300 First National Bank
Minneapolis, Minnesota 55402

Bob Franklin
City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, Minnesota 55488

General Mills, Inc.
Attn: J. W. Haun
P.O. Box 1113
Minneapolis, Minnesota 55440

Marvin Giza
115 North 5th
Staples, Minnesota 56479

Lynn R. Gruber
Minnesota Medical Assoc.
Suite 400 Health Assoc. Center
2221 University Avenue S.E.
Minneapolis, Minnesota 55414

Betsy Glassman
304½ Carlton Avenue
Cloquet, Minnesota 55720

Bruce Gunderson
Box 16 B Star Route
Karlstad, Minnesota 56732

John B. Gordon
1300 Northwestern Bank Building
Minneapolis, Minnesota 55402

William G. Haddeland
Minnesota Petroleum Council
300 Northern Federal Building
St. Paul, Minnesota 55102

Ella Grass
1001 Penn North
Minneapolis, Minnesota 55411

Raymond A. Haik
4344 IDS Center
Minneapolis, Minnesota 55402

Phil Graves
Hospital Administrator
Century Avenue
Hutchinson, Minnesota 55350

Stanley K. Hamilton
AMAX Exploration, Inc.
P.O. Box 1019
Chesterfield, Missouri 63017

Katherine Gray
Ebenezer Center for Aging
2722 Park Avenue South
Minneapolis, Minnesota 55407

David T. Hanson - Johnson Div. of U.O.P.
1950 Old Highway 8
P.O. Box 43118
New Brighton, Minnesota 55164

J. P. Harmon
Department 713/Building 658-D
IBM Corporation
Highway 52 & NW 37th Street
Rochester, Minnesota 55901

Thomas W. Hayes
Pickands Mather & Co.
Suite 811-200 W. Superior St.
Duluth, Minnesota 55802

Ray E. Harris
Chief Geologist, BurWest
700 First Northwestern Bank Center
Billings, Montana 59101

Tom Heenan
City of Crystal Health Department
4141 Douglas Drive
Crystal, Minnesota 55422

Rick Harry
1000 Lakeshore Drive
Moose Lake, Minnesota 55767

R. Helgeson, Ph.D.
Blue Earth County Human Services
410 South Fifth Street
Mankato, Minnesota 56001

Daniel Hartman
12001 Highway 52
Champlin, Minnesota 55316

Marlyce Helm
Foundation for Health Care Evaluation
Suite 400
20 Washington Avenue South
Minneapolis, Minnesota 55401

Hartmann Well Company
308 East Main Street
New Prague, Minnesota 56071

George Holey
1509 SW 6th Street
Faribault, Minnesota 55021

Robert L. Haven
Twin Town Treatment Center
1706 University Avenue
St. Paul, Minnesota 55104

Debra Holmgren
Director of Planning
Metropolitan Medical Center D837
900 South 8th Street
Minneapolis, Minnesota 55404

John G. Horner
Minnesota Multi-Housing Association
3100 West Lake Street
Minneapolis, Minnesota 55416

Alan W. Ingram, Executive Director
National Association of Social Workers,
Minnesota Chapter
614 Portland
St. Paul, Minnesota 55102

Cathie Hudes
3465 Pilgrim Lane
Plymouth, Minnesota 55441

Minnesota Division, Izaak Walton
League of America
111 East Franklin Avenue, Suite 200
Minneapolis, Minnesota 55404

Cathie Hughes
North Memorial Medical Center
Planning & Government Relations
3220 Lowry Avenue North
Minneapolis, Minnesota 55422

James Jack
Department of Recreation,
Parks & Community Education
Mankato State University
Mankato, Minnesota 56001

Huron Drilling, Incorporated
Box 1422 Highway 14 West
Huron, South Dakota 57350

Bruce Jagunich
Box 113A, Rt. 1
Iron, Minnesota 55751

Robert M. Hutchison
Anoka County Community Health & Social
Service Department
Courthouse-4th Floor
Anoka, Minnesota 55303

Gertrude M. James
Anoka County Community Health &
Social Services Department
Courthouse, 4th Floor
Anoka, Minnesota 55303

Ingleside Engineering & Construction, Inc.
Route 1, Box 175
Rockford, Minnesota 55373

John E. Jennerjohn
Box 41
Decorah, Iowa 52101

Mrs. Gaynold Jensen, R.D.
111 West 107th Street
Minneapolis, Minnesota 55420

Walter Johnson
8950 Eden Prairie Road
Eden Prairie, Minnesota 55344

J. K. Tool Company, Inc.
R.R. 1, Box 6A
Wheaton, Minnesota 56296

Marliss Johnston
Region 9
Box 3367
Mankato, Minnesota 56001

Barbara Johnson
1636 Taylor Avenue
St. Paul, Minnesota 55104

Sarah Johnston-Rodriguez
Region Nine Development Commission
410 S. 5th Street, P.O. Box 3367
Mankato, Minnesota 56001

Clarence Johnson
3615 37th Ave. South
Minneapolis, Minnesota 55406

Jones, Haugh & Smith, Inc.
Consulting Engineers
515 South Washington
Albert Lea, Minnesota 56007

Michael D. Johnson
Frundt, Frundt & Johnson
117 West Fifth Street
Blue Earth, Minnesota 56013

Kevin C. Jones
Geo. A. Hormel & Company
P.O. Box 800
Austin, Minnesota 55912

Phillip W. Johnson
Saint Marys Hospital
Rochester, Minnesota 55901

Kris Juliar
Region Nine Development Commission
410 S. 5th Street, P.O. Box 3367
Mankato, Minnesota 56001

Ken Kadler
762 Holly Avenue
St. Paul, Minnesota 55104

Eldon D. Kirsch, Director
United Steelworkers of America, Dist. 33
609 Providence Building
Duluth, Minnesota 55802

Fran Kaschak
64 Mill Pond Court
Chaska, Minnesota 55318

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Building
Minneapolis, Minnesota 55402

Richard J. Keenan
4444 IDS Center
Minneapolis, Minnesota 55402

David R. Knodell
315 Peavey Building
Minneapolis, Minnesota 55402

Loni Kemp
The Minnesota Project
618 East 22nd Street
Minneapolis, Minnesota 55404

Jim Koesling
600 Lafayette Road
St. Paul, Minnesota 55101

Bob Kent - Kent Well Drilling
Rt. 1 Box 67-C
Wrenshall, Minnesota 55797

Charles A. Kroeger
Executive Director
QSS, Inc.
P.O. Box 838
Faribault, Minnesota 55021

Tom Kingston
Executive Director
New Protection Prog., Inc.
73 Leech Street
St. Paul, Minnesota 55102

Vicki Kunerth
627 Oak Street S.E.
Minneapolis, Minnesota 55414

Al Kurki
2904 West 3rd Street
Duluth, Minnesota 55806

Tobey Lapakko
Director of Consumer Affairs
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, Minnesota 55103

LaBore Well Company, Inc.
R.R. #3, Box 560
Mora, Minnesota 55051

R. J. Lavell
Deputy Commissioner
Department of Veterans Affairs
Veterans Service Building
St. Paul, Minnesota 55155

A. Lagesonup
125 W. Melvina St.
P.O. Box 121216
Milwaukee, Wisconsin 53212

L. L. Laymon
512 North Salisbury Street
Raleigh, North Carolina 27811

Byron Laher
404 South 8th Street
Minneapolis, Minnesota 55404

Layne Minnesota Company
3147 California Street N.E.
Minneapolis, Minnesota 55418

Fred Lahman
Hines, Minnesota 56647

Ernest K. Lehmann
1409 Willow Street
Minneapolis, Minnesota 55403

Lako Drilling Company
Box 152
Arthur, North Dakota 58006

LaVon Lohr
2495 Canabury Drive #332
Little Canada, Minnesota 55104

Dr. Nicholas Long
2409 Humbolt Avenue South
Minneapolis, Minnesota 55405

John C. McKasy
717 Delware Street S.E.
Minneapolis, Minnesota 55440

Georgianne Lowney
609 West 1st Street
Waconia, Minnesota 55387

Gary R. Macomber
4344 IDS Center
Minneapolis, Minnesota 55402

Ms. Carol S. Lucey
Division of Water Resources, PO Box CN-029
Trenton, New Jersey 08625

Duane M. Madison
Aqua Systems
1060 McQuade Road
Duluth, Minnesota 55804

Mary Luth
8155 Hudson Road
Woodbury, Minnesota 55125

Don Manthey
Route 3, Box 176
Crosby, Minnesota 56444

Philip M. McDonald
2077 Selby Avenue
St. Paul, Minnesota 55704

T. J. Manthey
Pickands Mather & Company
1100 Superior Avenue
Cleveland, Ohio 44114

William A. McEllhiney, Jr., President
J.P. Miller Artesian Well Company
P.O. Box 359
Brookfield, Illinois 60513

Marathon Resources, Inc.
1515 Arapahoe Street, Suite 1300
Denver, Colorado 80202

Marcus Well Company
Prinsburg, Minnesota 56281

Mead Well Drilling, Inc.
A. J. MacDonell
Box 569
Grand Rapids, Minnesota 55744

Maryann S. Marino, Ph.D.
Koppers Company, Inc.
1201 Koppers Building
Pittsburgh, PA 15219

Carl F. Meissner
7516 80th Street South
Cottage Grove, Minnesota 55016

Ralph J. Marlatt
1320 Soo Line Building
Minneapolis, Minnesota 55402

Dr. R. H. Merkel
Anaconda Company
555 17th Street
Denver, Minnesota 80217

Mr. Hal Marsolais, Ex. Dir.
Minnesota-Dakotas Retail Hardware Assoc.
3033 Excelsior Boulevard
Minneapolis, Minnesota 55416

Metro Community Health Consortium
3014 University Avenue S.E.
Minneapolis, Minnesota 55414

John Martell
715 North 5th Street
Staples, Minnesota 56479

Director, Metropolitan Health Board
300 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

L. A. Mattson
Hanna Mining Company, Box 218
Hibbing, Minnesota 55746

Metropolitan Senior Federation
1951 University Avenue
St. Paul, Minnesota 55104

James Miller
Minnesota Public Interest Research Group
2412 University Ave. S.E.
Minneapolis, Minnesota 55414

Minnesota Board of Optometry
Executive Secretary
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Paul J. Miller
421 15th Avenue S.W.
Rochester, Minnesota 55901

Executive Secretary
Minnesota Board of Pharmacy
717 Delaware Street S.E.
Minneapolis, Minnesota 55414

J. Mills
Illinois Department of Health
535 West Jefferson
Springfield, Illinois 62761

Executive Secretary
Minnesota Board of Psychology
717 Delaware Street S.E. d#343
Minneapolis, Minnesota 55414

Minneapolis Health Department
Public Health Center
250 South 4th Street
Minneapolis, Minnesota 55415

Minnesota Chiropractic Association
2353 Rice Street, #170
St. Paul, Minnesota 55113

Minnesota Association of Voluntary
Social Services Agencies
141S Griggs-Midway Building
1821 University Avenue
St. Paul, Minnesota 55104

Minnesota Manufactured Housing Association
222 East Little Canada Road, Suite 222
St. Paul, Minnesota 55117

Minnesota Board of Nursing
717 Delaware Street S.E.
Minneapolis, Minnesota 55414

Minnesota Newspaper Association
84 South Sixth Street, Suite 400
Minneapolis, Minnesota 55402

Minnesota Senior Federation
301 Fuller Avenue
St. Paul, Minnesota 55103

N.A.S.W.
Portland Avenue
St. Paul, Minnesota 55102

Minnesota Water Resources Board
555 Wabasha Street Room 206
St. Paul, Minnesota 55102

Don Negaard
Route 1 Box 208A
Barnum, Minnesota 55707

Mary J. Miranowski
Minnesota Multi Housing Association
3100 West Lake Street
Minneapolis, Minnesota 55416

Barbara Nelson
Advocate for the Blind
1821 University Avenue 389S
St. Paul, Minnesota 55104

Ann Mongoven
211½ Minnesota
Bemidji, Minnesota 56601

Kenneth R. Nelson
126 North Marshall
Litchfield, Minnesota 55355

Kris Anne Monteith
S&FA Reporting Services, Inc.
1101 15th Street, N.W., Suite 204
Washington, D.C. 20005

Nancy A. Nelson
1308 West 24th Street
Minneapolis, Minnesota 55405

Roger Moore
P.O. Box 1249
Minnetonka, Minnesota 55343

Steve Nesseth
226 Langford Avenue
Kenyon, Minnesota 55946

Phil Newburg
Board of Examiners of Nursing
Home Administrations
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Director - Office of Consumer Services
128 Metro Square
7th & Robert
St. Paul, Minnesota 55101

Steven Nielsen
2722 Park Avenue
Minneapolis, Minnesota 55407

O. K. Machine Company
Highway 89 & Center Street
Roseau, Minnesota 56751

Donald Norseth
Division of Water Rights/231E400S #200
Salt Lake City, Utah 84111

Olson Well Service
Donald W. Olson
Halstad, Minnesota 56548

Rev. Ron J. North
Director, Way 12
645 E. Wayzata Boulevard
Wayzata, Minnesota 55391

Pamela Parker
Minnesota Board on Aging
204 Metro Square Building
St. Paul, Minnesota 55101

Northwestern Mental Health Center
P.O. Box 603
Crookston, Minnesota 56716

Gordon Peake
5934 McIntyre Street
Golden, Colorado 80401

Raymond E. O'Connell
Minnegasco
733 Marquette Avenue
Minneapolis, Minnesota 55402

Don Pelton
Kandiyohi County Family Service
Box 757
905 West Litchfield Avenue
Willmar, Minnesota 56201

Luddene Perry
Box 194
Staples, Minnesota 56479

Thomas M. Polt
Attorney at Law
McCarthy Building
Eyota, Minnesota 55934

E. R. Perso
Walgreens Drug Stores
4411 Branson Street
Minneapolis, Minnesota 55424

Polt Law Office
McCarthy Building
Eyota, Minnesota 55934

Norville D. Petersen
P.O. Box 1045
Virginia, Minnesota 55792

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
314 Minnesota Building
St. Paul, Minnesota 55101

Kenneth Peterson
Minnesota Public Interest Research Group
2412 University Avenue S.E.
Minneapolis, Minnesota 55414

POST Board
500 Metro Square Building
St. Paul, Minnesota 55101

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, Minnesota 55103

Jack Powers
925 Delaware Street, S.E.
Minneapolis, Minnesota 55414

Mr. Bill Poblete
1611 N.W. Cascade Street
Rochester, Minnesota 55901

J. C. Prause
1313 Coon Rapids Boulevard
Coon Rapids, Minnesota 55433

Public Interest Advocacy Clinic
Hamline University School of Law
St. Paul, Minnesota 55104

Public Law Research Center
Hamline University School of Law
1536 Hewitt Avenue
St. Paul, Minnesota 55104

Gene R. Putz, Ph.D.
Physicians Med Labs
363 Southdale Med. Building
Edina, Minnesota 55435

H. E. Reed
700 1st Northwestern Bank
Billings, Montana 59101

Region 5 Regional Development Commission
611 Iowa Avenue
Staples, Minnesota 56479

Max Renner Well Co., Inc.
A. R. Engebretson
601 13th Avenue South
Hopkins, Minnesota 55343

Marlys Revak
Route 1 Box 180
Grasston, Minnesota 55030

Ann Richtman
805 Hague Avenue
St. Paul, Minnesota 55104

Susan P. Robertson
Executive Director
LCRAR
Room 430, State Office Building
St. Paul, Minnesota 55155

Kevin Roche
Antitrust Division
Minnesota Attorney General's Office
2nd Floor, Ford Building
St. Paul, Minnesota 55155

Rochester State Hospital
2110 East Center Street
Rochester, Minnesota 55901

I. F. Roesler
6700 Portland Avenue
Richfield, Minnesota 55423

Gerald J. Rohrbach
722 91st Avenue N.E.
Blaine, Minnesota 55434

Bruce T. Rowe
Administrator
Community Health Service Building
325 Lake Avenue South, #604
Duluth, Minnesota 55802

City of Rosemount
Don F. Darling, Clerk
P.O. Box 455
Rosemount, Minnesota 55068

Arlo D. Rowland
909 South Main Street
Chatfield, Minnesota 55923

Robert F. Rosenthal, Hospital Administrator
Rochester State Hospital
2110 East Center Street S.E.
Rochester, Minnesota 55901

Sam Ruhle
Office of Administrative Hearings
400 Summit Bank Building
310 South Fourth Avenue
Minneapolis, Minnesota 55415

City of Roseville
2660 Civic Center Drive
Roseville, Minnesota 55113

Ryan Well Co.
14745 South Robert Trail
Rosemount, Minnesota 55068

Alfred Ross
6356 Ware Road
Lino Lakes, Minnesota 55014

Peter Sajevic
Executive Director
Nor Haven, Inc.
1394 Jackson Street
St. Paul, Minnesota 55117

Marjorie Ross
1145 Quentin Avenue South
Lakeland, Minnesota 55043

Blair Salisbury
Martin-Trost Associates
1510 Washington Street
Golden, Colorado 80401

Linda Sandvig
Minnesota Nurses Association
1821 University Avenue
St. Paul, Minnesota 55104

Pam Schmidt
Region Nine Development Commission
410 S. 5th Street, P.O. Box 3367
Mankato, Minnesota 56001

S. M. Sanford
7000 Portland Avenue
Richfield, Minnesota 55423

Paul G. Schmidt
Exxon Minerals Company, U.S.A.
P.O. Box 676
Rhinelander, Wisconsin 54501

Barry C. Schade
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Bernice Schoenborn
1295-10th Avenue North
St. Cloud, Minnesota 56301

Charles Schaffer
Minnesota Department of Economic
Development
480 Cedar Street
St. Paul, Minnesota 55101

Carl F. Schultz
Rt. #1
Box 20A
Cochrane, Wisconsin 54622

W. E. Scherffius
St. Joe American Corporation
4600 West 77th Street, #197
Edina, Minnesota 55424

Lyle Seppmann
R.R. 1 Box 110
Mankato, Minnesota 56001

Paul T. Schleicher
Rt. 1, Box 224A
Pillager, Minnesota 56473

James C. Shipman
Association of Minnesota Counties
2305 Ford Parkway
St. Paul, Minnesota 55116

Robert A. Silvagni
Univ. of Minn. - Physical Plant Dept.
200 Shops Building
319 15th Avenue S.E.
Minneapolis, Minnesota 55455

Dominic J. Sposeto
Director of Government Relations
Minnesota Dental Association
2236 Marshall Avenue
St. Paul, Minnesota 55104

Carl A. Smith M330
Director Agri-Products Safety & Reg. Aff.
The Pillsbury Company
608 2nd Avenue South
Minneapolis, Minnesota 55402

Pete Stallcop
Northwest Country Elevator Association
Commerce Station
P.O. Box 15004
Minneapolis, Minnesota 55415

R. Snyder
248 C.O.B.
University of Minnesota
St. Paul, Minnesota 55108

Dr. Theodore J. Stamos
Dakota County Mental Health Center
744 19th Avenue North
South St. Paul, Minnesota 55075

Michael Sobota
119 East Lake
Mora, Minnesota 55051

Stecker Well Drilling
1306 1st Avenue W.
Mason City, Iowa 50401

James H. Sova
Minnesota Medical Association
Suite 400, Health Associations Center
2221 University Avenue, S.E.
Minneapolis, Minnesota 55414

Michael J. Steffl
1409 5th Street S.W.
Willmar, Minnesota 56201

Bonnie M. Spencer
State Regulatory Division
Federal-State Reports, Inc.
5203 Leesburg Pike, #1201
Falls Church, Virginia 22041

Jerry B. Steinke
Route 2 Box 190
McGregor, Minnesota 55760

Sunnarborg Well Drilling, Inc.
28 West Palkie Road
Esko, Minnesota 55733

Thein Well Company, Inc.
Box 429
Clara City, Minnesota 56222

Superior Drillers Supply Company
5569 Arrowhead Road, P.O. Box 6780
Duluth, Minnesota 55806

Mr. P. J. Thornton
Iron Range Building & Construction
Trades Council
1107 15th Avenue East
Hibbing, Minnesota 55746

H. A. Swift
5165 North St. Albans
St. Paul, Minnesota 55112

Richard A. Thron
Route 1
Lakeland, Minnesota 55043

V. S. Tate
Legislative Research
3M Company
3M Center, 225-2N-6
St. Paul, Minnesota 55144

Elaine J. Timmer
426 West Avenue
Red Wing, Minnesota 55066

Earl H. Taylor, Clerk
City of Independence
1790 County Road 90
Maple Plain, Minnesota 55359

Gregory Tompt
P.O. Box 489
Willmar, Minnesota 56201

Rogus Ternes
3810 West Superior Street
Duluth, Minnesota 55807

Woodrow J. Torgerson
Rt. 2, Box 172
Rockford, Minnesota 55373

Traut Well's Inc.
Chuck R. Holtman
Rt. #4
St. Cloud, Minnesota 56301

W. C. Viitala
Public Affairs Department
Honeywell Plaza MN12-5215
Minneapolis, Minnesota 55408

Turner Equipment
R.R. 2 Box 5
Grand Meadow, Minnesota 55936

Terri Virkus
1031 East 6th Street
Duluth, Minnesota 55805

Helen C. Tyler
School Social Work Services
Minneapolis Public Schools
254 Upton Avenue South
Minneapolis, Minnesota 55405

Water Equipment News
Box 367
Urbana, Illinois 61801

Valnes Well Drilling
Robert Morris
Morris, Minnesota 56267

Donna M. Waters
110506 Windmill Court
Chaska, Minnesota 55318

Nancy Van Burgel
1325 S. Colorado Blvd. Bldg. B
Houston International Minerals, Corp.
Denver, Colorado 80222

Virginia Watkins
P.O. Box 1348
Minnetonka, Minnesota 55343

Peter Van Hauer - Health Central, Inc.
601 Brookdale Towers - 2810 57th Avenue N.
Minneapolis, Minnesota 55430

Geraldine E. Wedel
1821 University
St. Paul, Minnesota 55104

Eugene Weisel - Gene's Well Service
Route 1
Kensington, Minnesota 56343

Bettye Willis
6 W 5th Ste 770
St. Paul, Minnesota 55102

G. V. Welk, Manager
Reg. Compliance & Serv.
Northern States Power Company
414 Nicollet Mall
Minneapolis, Minnesota 55401

Clark C. Wingard, Well Drilling
Box 278
Menahga, Minnesota 56464

Clair Wempner
230 1st Avenue S.W.
Plainview, Minnesota 55964

Wolverton Engineering Company
847 40th Avenue N.W.
Columbia Heights, Minnesota 55421

West Central Regional Development
Commission
Fergus Falls Community College
Fergus Falls, Minnesota 56537

D. D. Wozniak
401 Midwest Federal Building
St. Paul, Minnesota 55101

Mr. Gregory M. Weyandt
Attorney at Law
900 First Bank Place West
Minneapolis, Minnesota 55402

PMB:tme/EXECUTIVE/LABELS/June 14, 1982

Merlin A. Wilbur
100 Sibley Street
Hastings, Minnesota 55033

A.I.D. Homes, Inc.
Horizon Apartments
1094 Waterloo Avenue
West St. Paul, Minnesota 55118

Alpha Homes, Inc.
Board of Directors
P.O. Box 475
Spicer, Minnesota 56288

American Baptist Homes
of the Upper Midwest
7928 Eden Road
Eden Prairie, Minnesota 55344

Arnie Lee Memorial Home
Route 2
Evansville, Minnesota 56326

Assisi Residences of
Faribault County, Inc.
Board of Directors
218 South Linton
Blue Earth, Minnesota 56013

Bakke Group Home
Board of Directors
405 Lake Street
Osakis, Minnesota 56360

Brighter Day Residences, Inc.
620 North Wood Street
Mora, Minnesota 55051

Catholic Charities of
Diocese of St. Cloud
Board of Directors
1726 Seventh Avenue South
St. Cloud, Minnesota 56301

Christian Concern, Inc.
Board of Directors
402 North Third Street
St. Peter, Minnesota 56082

Community Involvement
Board of Directors
1926 Nicollet Avenue South
Minneapolis, Minnesota 55403

Community Living
Box 128
Victoria, Minnesota 55386

Crippled Children's School, Inc.
Box 23
Worthington, Minnesota 56187

Dakota's Children, Inc.
400 West Marie
West St. Paul, Minnesota 55118

The Dell's Place, Inc.
Board of Directors
235 South Second Avenue
Delano, Minnesota 55328

Dorothe Lane Children's Home
205 Sixth Street
Sauk Centre, Minnesota 56378

Duluth Regional Care
Board of Directors
603 Alworth Building
Duluth, Minnesota 55802

Dungarvin, Inc.
865 Front Street
St. Paul, Minnesota 55117

Episcopal Group Homes
522 Shadyway Road
Wayzata, Minnesota 55391

Fillmore County Handicapped
Services, Inc.
135 Center Street Southeast
Harmony, Minnesota 55939

Forestview Community Homes, Inc.
P.O. Box 1249
Minnetonka, Minnesota 55343

Forestview - Hemmingway
8045 Hemmingway Avenue South
Cottage Grove, Minnesota 55016
Washington County

Friendship Haven, Inc.
P.O. Box 576
Sherburne, Minnesota 56171

Good Neighbor Home
1091 Fairmont Avenue
St. Paul, Minnesota 55105

Great River Homes, Inc.
717 Rustic Lane
Wabasha, Minnesota 55981

Greenbrier Home, Inc.
Board of Directors
941 Birmingham Street
St. Paul, Minnesota 55106

Group Homes of Winona, Inc.
377 Main Street
Winona, Minnesota 55987

Hammer Residences, Inc.
Board of Directors
1909 East Wayzata Boulevard
Wayzata, Minnesota 55391

Harry Meyering Center
Board of Directors
109 Homestead Drive
Box 302
Mankato, Minnesota 56001

Hearthside Home
Board of Directors
Pike Bay Drive
Lake Vermillion
Tower, Minnesota 55790

Heartland Homes for
Retarded Citizens, Inc.
P.O. Box 214
Park Rapids, Minnesota 56470

Henry Hagen Residence
19845 Lillehei Drive
Hastings, Minnesota 55033

Hiawatha Children's Home
Board of Directors
1820 Valkyrie Drive Northwest
Rochester, Minnesota 55901

Hiawatha Manor, Inc.
Board of Directors
107 Fifth Avenue Northeast
Pipestone, Minnesota 56164

Home for Creative Living
Board of Directors
108 Ninth Street
Windom, Minnesota 56101

Homeward Bound, Inc.
4741 Zealand Avenue North
New Hope, Minnesota 55428

Hope Residence, Inc.
Box 63
Waterville, Minnesota 56096

Innovative Homes, Inc.
P.O. Box 11
Kasson, Minnesota 55944

Koep Group Home
Route 3
Fergus Falls, Minnesota 56537

Lakeview Home
Lincoln and West Second Streets
Sauk Centre, Minnesota 56378

Lutheran Social Services
of Minnesota
Board of Directors
2414 Park Avenue South
Minneapolis, Minnesota 55404

M.B.W. Company
801 Center Street
New Ulm, Minnesota 56073

Moore's Haven, Inc.
865 Front Street
St. Paul, Minnesota 55117

Mt. Olivet Rolling Acres
7200 Rolling Acres Road
Excelsior, Minnesota 55331

Nekton, Inc.
633 North Snelling Avenue
St. Paul, Minnesota 55104

New Dawn, Inc.
Board of Directors
Route 1, Box K1
Fulda, Minnesota 56131

NorHaven Homes, Inc.
Board of Directors
1394 Jackson Street
St. Paul, Minnesota 55117

Northeast House, Inc.
Board of Directors
2821 South Inglewood Avenue
Minneapolis, Minnesota 55416

Northeast Residence, Inc.
Board of Directors
104 Bald Eagle Avenue
White Bear Lake, Minnesota 55110

Olmsted ARC
Board of Directors
1312 Seventh Street Northwest
Rochester, Minnesota 55901

Orvilla, Inc.
Board of Directors
3430 Westcott Hills Drive
Eagan, Minnesota 55123

Our House of Minnesota, Inc.
1846 Portland Avenue
St. Paul, Minnesota 55104

Outreach Group Homes, Inc.
2344 Nicollet Avenue South
Suite 360
Minneapolis, Minnesota 55404

People, Inc.
1245 Northwestern National Bank Building
St. Paul, Minnesota 55101

The Phoenix Residence, Inc.
Board of Directors
135 Colorado Street East
St. Paul, Minnesota 55107

Pine Ridge Homes, Inc.
915 - 18th Street
Cloquet, Minnesota 55720

Pine River Group Home
Box 96
Pine River, Minnesota 56474

Presbyterian Family Foundation
901 Service Drive
Willmar, Minnesota 56201

QSS, Inc.
P.O. Box 838
Faribault, Minnesota 55021

Ramsey County Commissioners
Court House
St. Paul, Minnesota 55101

Range Center, Inc.
Board of Directors
1001 Eighth Avenue Northwest
Chisholm, Minnesota 55719

Resa, Inc.
38 Seventh Avenue North
Hopkins, Minnesota 55343

South Center Manor, Inc.
Park Island
Center City, Minnesota 55012

The Residence, Inc.
Board of Directors
2499 North Rice Street
Suite 139, Oakwood Square
Roseville, Minnesota 55133

Summit House
1004 Summit Avenue
Minneapolis, Minnesota 55403

Residential Alternatives, Inc.
5449 Lyndale Avenue North
Minneapolis, Minnesota 55430

Sur La Rue, Inc.
1386 Jackson Street
St. Paul, Minnesota 55117

Residential Services of Northeast Minnesota
2048 East Eighth Street
Duluth, Minnesota 55812

Uptown Group Living
Board of Directors
1154 East Grain Exchange
Minneapolis, Minnesota 55408

Riverview Manor, Inc.
Board of Directors
Box 215
Wanamingo, Minnesota 55983

Valley Group Home
Board of Directors
1332 Second Avenue North
Moorhead, Minnesota 56560

Salmi Board and Lodging Home
Board of Directors
Route 1, Box 235
Aurora, Minnesota 55705

Warner Care Homes
Board of Directors
450 East Third Street
Cokato, Minnesota 55321

Willmar Nursing Home, Inc.
1004 Ella Avenue
Willmar, Minnesota 56201

Windom CRF, Inc.
Box 244
Windom, Minnesota 56101

Woodvale Homes, Inc.
Box 1047
Austin, Minnesota 55912

Woodvale Management Services
Box 1047
Austin, Minnesota 55912

Exhibit B'

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* extra rows

0002 6 001
301 MINNESOTA AVE SO
AITKIN MN 56431

1357 3 001
* OAK RIDGE HOMES
316 SECOND AVE SE
AITKIN MN 56431

* 0866 4 002
TWIN RIVER CARE CENTER
305 FREMONT STREET

0848 2 001
AICOTA NURSING HOME
850 SECOND ST NW
AITKIN MN 56431

0893 8 002
ANOKA MAPLE MANOR CARE CENTE
1040 MADISON STREET
ANOKA MN 55303

1400 1 002
LOUIS HOUSE NORTH
1000 PAUL PARKWAY

0002 6 001
AITKIN COMMUNITY HOSPITAL
301 MINNESOTA AVE SO
AITKIN MN 56431

0004 2 002
ANOKA STATE HOSPITAL
BOX 511
ANOKA MN 55303

0005 9 002
CREST VIEW LUTHERAN HOME
4444 RESERVOIR BLVD NE

0002 6 001
AITKIN COMMUNITY HOSPITAL
301 MINNESOTA AVE SO
AITKIN MN 56431

0004 2 002
ANOKA STATE SLF UNIT
BOX 511
ANOKA MN 55303

0757 5 002
CAMILIA ROSE CONV CENTER
11800 XEON BLVD NW
COON RAPIDS MN 55433

1221 3 001
OAK RIDGE HOMES
316 SECOND AVE SE
AITKIN MN 56431

0866 4 002
TWIN RIVER CARE CENTER
305 FREMONT STREET
ANOKA MN 55303

1141 1 002
CAMILIA ROSE GROUP HOME
11800 XEON BLVD
COON RAPIDS MN 55433

0801 1 002
FRIDLEY CONVALESCENT HOME
7590 LYRIC LANE
FRIDLEY MN 55432

0013 3 003
EMMANUEL NURSING HOME
MADISON AVE
DETROIT LAKES MN 56501

1311 0 003
WEST HOME
1118 WEST AVE
DETROIT LAKES MN 56501

0017 4 004
BELTRAMI NURSING HOME
1633 DELTON AVE
BEMIDJI MN 56601

0823 5 004
NORTH COUNTRY NSG + REHAB
109 EAST 8TH STREET
BEMIDJI MN 56601

0021 6 004
NORTHERN PINES GOOD SAM CTR
P.O.
BLACKDUCK MN 56630

0627 0 005
COUNTRY MANOR NURSING HOME
520 FIRST ST NE
SARTELL MN 56377

0762 5 006
GRACE HOME
116 W SECOND STREET
GRACEVILLE MN 56240

0893 8 002
ANOKA MAPLE MANOR CARE CENTE
1040 MADISON STREET
ANOKA MN 55303

1400 1 002
LOUIS HOUSE NORTH
1000 PAUL PARKWAY
BLAINE MN 55343

1253 4 002
COMMUNITY LIVING
2483 109TH AVE NW
COON RAPIDS MN 55431

0007 5 002
LYNWOOD HEALTHCARE CENTER
5700 E RIVER ROAD
FRIDLEY MN 55432

0888 8 003
ST MARYS HOSP OF DETROIT LAK
1014 LINCOLN AVENUE
DETROIT LAKES MN 56501

0730 2 003
FRAZEE RETIREMENT CENTER
2ND STREET SW BOX 96
FRAZEE MN 56544

0017 4 004
BELTRAMI NURSING HOME
1633 DELTON AVE
BEMIDJI MN 56601

1337 5 004
NORTH STAR HOMES
2528 PARK AVE
BEMIDJI MN 56601

0020 8 004
GOOD SAMARITAN CENTER
PO BOX 189
KELLIHER MN 56650

0023 2 005
GOOD SHEPHERD LUTHERAN HOME
1115 4TH AVE NORTH
SAUK RAPIDS MN 56379

0762 5 006
GRACE HOME
116 W SECOND STREET
GRACEVILLE MN 56240

0004 2 002
ANOKA STATE HOSPITAL
BOX 511
ANOKA MN 55303

0005 9 002
CREST VIEW LUTHERAN HOME
4444 RESERVOIR BLVD NE
COLUMBIA HEIGHTS MN 55421

0009 1 002
MERCY MEDICAL CENTER
4050 COON RAPIDS BLVD
COON RAPIDS MN 55433

0011 7 002
UNITY MEDICAL CENTER
550 OSBORNE ROAD
FRIDLEY MN 55432

0907 6 003
ST MARYS NURSING CENTER
1040 LINCOLN AVENUE
DETROIT LAKES MN 56501

1004 1 003
SMITH GROUP HOME
RT 1 BOX 17A
FRAZEE MN 56544

0821 9 004
BEMIDJI COMM HOSPITAL
1100 W 38TH ST
BEMIDJI MN 56601

1356 5 004
REM BELTRAMI
916 SOUTH FIRST
BEMIDJI MN 56601

9001 9 004
PHS INDIAN HOSPITAL

RED LAKE MN 56671

0024 0 005
GRANITE CARE HOME
202 SECOND AVE SO
SAUK RAPIDS MN 56379

0027 3 006
HOLY TRINITY HOSP
115 W SECOND STREET
GRACEVILLE MN 56240

0004 2 002
ANOKA STATE SLF UNIT
BOX 511
ANOKA MN 55303

0757 5 002
CAMILIA ROSE CONV CENTER
11800 XEON BLVD NW
COON RAPIDS MN 55433

0010 9 002
PARK RIVER ESTATES CARE CENT
1371 98TH LANE NW
COON RAPIDS MN 55433

1299 7 002
FORESTVIEW LEXINGTON
9329 DUNLAP AVE NO
LEXINGTON MN 55112

1310 2 003
SUMMIT HOME
920 SUMMIT AVE
DETROIT LAKES MN 56501

0016 6 003
SUNNYSIDE NURSING HOME
ROUTE 2
LAKE PARK MN 56554

1363 1 004
MISSISSIPPI HOME
1001 MISSISSIPPI AVE
BEMIDJI MN 56601

1346 6 004
REM BEMIDJI
RT 5 BOX 197 E
BEMIDJI MN 56601

0629 6 005
FOLEY NURSING CENTER
10 PINE STREET
FOLEY MN 56329

0026 5 006
CLINTON GOOD SAM CENTER
PO BOX 379
CLINTON MN 56225

1369 8 006
ANOTHEN
700 EASTVOLD AVE
ORTONVILLE MN 56278

0771 6 006
NORTHRIDGE RESIDENCE
1075 ROY STREET
ORTONVILLE MN 56278

0029 9 006
ORTONVILLE MUN HOSP
750 EASTVOLD AVE
ORTONVILLE MN 56278

0034 9 007
LAKE CRYSTAL HEALTH CARE CNT
202 LACLAIRE
LAKE CRYSTAL MN 56055

0034 9 007
LAKE CRYSTAL HEALTH CARE CNT
202 LACLAIRE
LAKE CRYSTAL MN 56055

1174 2 007
FAMILY HOUSE
328 NO SIXTH ST
MANKATO MN 56001

1409 2 007
FAMILY RECOVERY PROGRAM
HWY 169 NORTH
MANKATO MN 56001

1008 2 007
HARRY MEYERING CTR INC
109 HOMESTEAD DRIVE
MANKATO MN 56001

0031 5 007
HILLCREST HEALTH CARE CNTR
ROUTE 9 BOX 3
MANKATO MN 56001

1396 1 007
HORIZON HOME II
317-319 HICKORY
MANKATO MN 56001

0033 1 007
IMMANUEL-ST JOSEPHS HOSP
325 GARDEN BLVD
MANKATO MN 56001

0035 6 007
MANKATO HOUSE HEALTH CARE CN
700 JAMES AVENUE
MANKATO MN 56001

0036 4 007
MANKATO LUTHERAN HOME
718 MOUND AVE
MANKATO MN 56001

0036 4 007
MANKATO LUTHERAN HOME
718 MOUND AVE
MANKATO MN 56001

0038 0 007
OAKLAWN HEALTH CARE CENTER
1112 MULBERRY
MANKATO MN 56001

1145 2 007
REM MANKATO
210 THOMAS DR
MANKATO MN 56001

0037 2 007
MAPLETON COMMUNITY HOME
301 TROENDEL ST
MAPLETON MN 56065

0039 8 008
COMFREY HOSPITAL
BOX 38
COMFREY MN 56019

1330 0 008
ELEVEN SEVEN
117 SOUTH MINNESOTA
NEW ULM MN 56073

0041 4 008
HIGHLAND MANOR
405 NO HIGHLAND AVE
NEW ULM MN 56073

1210 4 008
MBW ON CENTER
801 CENTER STREET
NEW ULM MN 56073

1404 3 008
NEW ULM CRF I
327 NORTH GERMAN
NEW ULM MN 56073

1413 4 008
NEW ULM CRF II
1708 NORTH GARDEN
NEW ULM MN 56073

0838 3 008
SIOUX VALLEY HOSP-SOUTH UNIT
7TH ST & BROADWAY
NEW ULM MN 56073

0839 1 008
SIOUX VALLEY NH NORTH UNIT
1324 FIFTH STREET NO
NEW ULM MN 56073

0839 1 008
SIOUX VALLEY NH NORTH UNIT
1324 FIFTH STREET NO
NEW ULM MN 56073

0040 6 008
DIVINE PROVIDENCE COMM HOME
700 THIRD AVE NW
SLEEPY EYE MN 56085

0776 5 008
SLEEPY EYE CARE CENTER
1105 3RD AVE SW
SLEEPY EYE MN 56085

0043 0 008
SLEEPY EYE MUNICIPAL HOSPITA
400 FOURTH AVE NW
SLEEPY EYE MN 56085

0044 8 008
SPRINGFIELD COMMUNITY HOSP
625 N JACKSON
SPRINGFIELD MN 56087

0045 5 008
ST JOHN LUTHERAN HOME
PO BOX 76
SPRINGFIELD MN 56087

0045 5 008
ST JOHN LUTHERAN HOME
P O BOX 167
SPRINGFIELD MN 56087

0047 1 009
CARLTON NURSING HOME
810 3RD STREET
CARLTON MN 55718

0048 9 009
COMMUNITY MEM HOSP
SKYLINE BLVD
CLOQUET MN 55720

0048 9 009
COMMUNITY MEM HOSP
SKYLINE BLVD
CLOQUET MN 55720

1084 3 009
PINE RIDGE HOME #1
413 BROADWAY
CLOQUET MN 55720

1128 8 009
PINE RIDGE HOME #2
16 11TH STREET
CLOQUET MN 55720

1284 9 009
PINE RIDGE HOME #3
1509 14TH STREET
CLOQUET MN 55720

0832 6 009
VILLA VISTA INC
PO BOX 98 NO HWY 73
CROMWELL MN 55726

0049 7 009
MERCY HOSP + C+NC

MOOSE LAKE MN 55767

0049 7 009
MERCY HOSPITAL + C+NC

MOOSE LAKE MN 55767

0050 5 009
MOOSE LAKE STATE HOSPITAL
1000 LAKESHORE DRIVE
MOOSE LAKE MN 55767

0050 5 009
MOOSE LAKE STATE HOSPITAL
1000 LAKESHORE DRIVE
MOOSE LAKE MN 55767

1085 0 010
THE CHANHASSEN CENTER
7701 ARBORETUM BLVD
CHANHASSEN MN 55317

0052 1 010
LAKE AUBURN HOME FOR AGED
7555 VICTORIA DRIVE
EXCELSIOR MN 55331

1022 3 010
MT OLIVET ROLLING ACRES
7200 ROLLING ACRES RD
EXCELSIOR MN 55331

0924 1 010
WACONIA HEALTHCARE CENTER
333 WEST 5TH STREET
WACONIA MN 55387

0057 0 011
AH GWAH CHING NURSING HOME
AH GWAH CHING MN 56430

1275 7 011
JOHNSONS LONG LAKE HOME
PO BOX 687
WALKER MN 56484

0062 0 012
LUTHER HAVEN NURSING HOME
EAST HIGHWAY 7
MONTEVIDEO MN 56265

1010 8 013
SOUTH CENTER MANOR INC
PARK ISLAND
CENTER CITY MN 55012

0065 3 013
THE MARGARET S PARMLY RES
28210 OLD TOWNE ROAD
CHISAGO CITY MN 55013

0069 5 013
RUSH CITY HOSPITAL
760 WEST 4TH STREET
RUSH CITY MN 55069

0072 9 014
EVENTIDE LUTHERAN HOME
1405 SOUTH 7TH ST
MOORHEAD MN 56560

0075 2 014
VIKING MANOR NURSING HOME
ULEN MN 56585

0078 6 015
GOOD SAMARITAN CENTER
CLEARBROOK MN 56634

1254 2 010
COMMUNITY LIVING
BOX 128
VICTORIA MN 55386

0055 4 010
WACONIA RIDGEVIEW HOSP
500 SOUTH MAPLE ST
WACONIA MN 55387

9002 7 011
PHS INDIAN HOSPITAL
CASS LAKE MN 56633

0059 6 011
WOODREST NURSING HOME
BOX J
WALKER MN 56484

1266 6 012
REM MONTEVIDEO
585 GRAVEL ROAD
MONTEVIDEO MN 56265

0064 6 013
CHISAGO LAKES HOSP
CHISAGO CITY MN 55013

0065 3 013
THE MARGARET S PARMLY RES
28210 OLD TOWNE ROAD
CHISAGO CITY MN 55013

0825 0 014
BARNESVILLE CARE CENTER
600 5TH STREET SE
BARNESVILLE MN 56514

0794 8 014
MOORHEAD HEALTH CARE CENTER
2810 NORTH 2ND AVE
MOORHEAD MN 56560

0076 0 015
CLEARWATER CO MEMORIAL HOSP.
505 NO BAGLEY AVE
BAGLEY MN 56621

0080 2 016
COOK CO NO SHORE HOSPITAL
GUNFLINT TRAIL
GRAND MARAIS MN 55604

0053 9 010
NIGHTINGALE NURSING HOME
232 SOUTH ELM ST
WACONIA MN 55387

0051 3 010
ELIM HOME
PO BOX 638
WATERTOWN MN 55388

0058 8 011
GOOD SAMARITAN CENTER
BOX 29
PINE RIVER MN 56474

0061 2 012
CLARA CITY COMMUNITY NH
1012 DIVISION ST NO
CLARA CITY MN 56222

0067 9 013
HAZELDEN FOUNDATION
BOX 11
CENTER CITY MN 55012

0064 6 013
CHISAGO LAKES HOSP
CHISAGO CITY MN 55013

0066 1 013
GREEN ACRES NURSING HOME
NORTH BRANCH MN 55056

1167 6 014
CLAY COUNTY RESIDENCE
1358 MAIN ST
HAWLEY MN 56549

0074 5 014
SAINT ANSGAR HOSPITAL
715 11TH ST NORTH
MOORHEAD MN 56560

0878 9 015
GREENSVIEW NURSING HOME
ROUTE 1
BAGLEY MN 56621

0080 2 016
COOK CO NORTHSHORE HOSPITAL
GUNFLINT TRAIL
GRAND MARAIS MN 55604

0053 9 010
NIGHTINGALE NURSING HOME
232 SOUTH ELM ST
WACONIA MN 55387

1374 8 010
RIVERWOOD TREATMENT CENTER
209 JEFFERSON AVENUE
WATERTOWN MN 55388

1231 0 011
PINE RIVER GROUP HOME
PO BOX 96
PINE RIVER MN 56474

0060 4 012
CHIPPEWA CO MONTEVIDEO HOSP
824 NO 11TH ST
MONTEVIDEO MN 56265

0067 9 013
HAZELDEN FOUNDATION
BOX 11
CENTER CITY MN 55012

1282 3 013
LINNEA RESIDENTIAL HOME
28770 OLD TOWN RD
CHISAGO CITY MN 55013

0919 1 013
HILLCREST HEALTH CARE CENTER
650 BREMER AVE SO
RUSH CITY MN 55069

1324 3 014
CLAY COUNTY RESIDENCE II
2842 VILLAGE GREEN DR
MOORHEAD MN 56560

1415 9 014
VALLEY GROUP HOME #1
1330 2ND AVE NO
MOORHEAD MN 56560

1012 4 015
PINE RIDGE RESIDENCE
8TH ST & HALLAN AVE
BAGLEY MN 56621

0728 6 017
EVENTIDE HOME
810 THIRD AVENUE
MOUNTAIN LAKE MN 56159

GOOD SAMARITAN VILLAGE
745 BASINGER MEM DR
MOUNTAIN LAKE MN 56159

1194 0 017
HOME FOR CREATIVE LIVING
108 NINTH STREET
WINDOM MN 56101

0087 7 018
BETHANY GOOD SAMARITAN CENTE
804 WRIGHT STREET
BRAINERD MN 56401

0089 3 018
BRAINERD STATE SLF UNIT
BOX 349 HWY 18 & 25
BRAINERD MN 56401

0091 9 018
CUYUNA RANGE DIST HOSPITAL
CROSBY MN 56441

1348 2 019
WARREN P EUSTIS HOUSE
720 BLUE GENTIAN ROAD
EAGAN MN 55121

0877 1 019
HAVEN HOMES
930 W 16TH STREET
HASTINGS MN 55033

0100 8 019
REGINA MEMORIAL HOSPITAL
NININGER ROAD
HASTINGS MN 55033

1392 0 019
ZENITH APARTMENTS
20345 IBERIA AVE WEST
LAKEVILLE MN 55044

1329 2 019
MACLARE RESIDENCE
630 15TH AVE NO
SO ST PAUL MN 55075

1138 7 019
DCI-THOMPSON AVE GROUP HOME
219 E THOMPSON AVE
WEST ST PAUL MN 55118

MOUNTAIN LAKE COMM HOSP
801 THIRD AVENUE
MOUNTAIN LAKE MN 56159

0085 1 017
SOGGE MEMORIAL HOME
FULLER DRIVE
WINDOM MN 56101

0092 7 018
BRAINERD GOOD SAMARITAN CTR
803 KINGWOOD STREET
BRAINERD MN 56401

1364 9 018
CHARIS HOUSE
1008 SOUTH TENTH ST
BRAINERD MN 56401

0090 1 018
CEDARBROOK MANOR NH
RT 2 BOX 284
DEERWOOD MN 56444

0101 6 019
SANFORD MEM HOSPITAL
913 MAIN STREET
FARMINGTON MN 55024

1091 8 019
HENRY HAGEN RESIDENCE
19845 LILLEHEI AVE
HASTINGS MN 55033

0100 8 019
REGINA MEMORIAL HOSPITAL
NININGER ROAD
HASTINGS MN 55033

1359 9 019
DCI DAKOTA ADULTS
2031 S VICTORIA ROAD
MENDOTA HEIGHTS MN 55118

1339 1 019
SPRUCE AVE RESIDENCE
1249 8TH AVE SO
SO ST PAUL MN 55075

1207 0 019
HORIZON APARTMENTS
1094 WATERLOO STREET
WEST ST PAUL MN 55118

DR HENRY SCHMIDT MEM HOSP
920 BELL AVE
WESTBROOK MN 56183

0796 3 017
WINDOM AREA HOSPITAL
HWY 60 + 71 NORTH
WINDOM MN 56101

0092 7 018
BRAINERD GOOD SAMARITAN CTR
803 KINGWOOD STREET
BRAINERD MN 56401

0093 5 018
SAINT JOSEPHS HOSPITAL
523 NO THIRD ST
BRAINERD MN 56401

0756 7 019
EBENEZER RIDGES
13820 COMMUNITY DR
BURNSVILLE MN 55337

0101 6 019
SANFORD MEM HOSPITAL
913 MAIN STREET
FARMINGTON MN 55024

1365 6 019
MICOLL RESIDENCE
926 WEST 2ND STREET
HASTINGS MN 55033

0828 4 019
INVER GROVE CARE CENTER
4700 SO ROBERT TRAIL
INVER GROVE HEIGHTS MN 55075

1240 1 019
BRYANT AVE RESIDENCE
1120 BRYANT AVE
SO ST PAUL MN 55025

1331 8 019
SUMMIT AVE RESIDENCE
920 SUMMIT AVE
SO ST PAUL MN 55075

0102 4 019
SOUTHVIEW ACRES HLTH CARE CT
2000 OAKDALE AVENUE
WEST ST PAUL MN 55118

WESTBROOK GOOD SAM CENTER
149 1ST AVE BOX 218
WESTBROOK MN 56183

1277 3 017
WINDOM CRF
945 PROSPECT
WINDOM MN 56101

0089 3 018
BRAINERD STATE HOSPITAL
BOX 349 HWY 18 & 25
BRAINERD MN 56401

0091 9 018
CUYUNA RANGE DIST HOSPITAL
CROSBY MN 56441

1013 2 019
ORVILLA INC
3430 WESCOTT HILLS DRIVE
EAGAN MN 55123

1406 8 019
DAKOTA CO RECEIVING CENTER
1200 E 18TH ST BLDG #1
HASTINGS MN 55033

0788 0 019
MINNESOTA VETERANS HOME
1200 EAST 18TH ST
HASTINGS MN 55033

0829 2 019
WEDGEWOOD HEALTH CARE CENTER
2060 UPPER 55TH ST EAST
INVER GROVE HEIGHTS MN 55075

0852 4 019
DIVINE REDEEMER MEM HOSP
724 19TH AVE NORTH
SO ST PAUL MN 55075

1014 0 019
DAKOTAS CHILDRENS HOME
400 WEST MARIE AVENUE
WEST ST PAUL MN 55118

1291 4 020
DODGE RESIDENCE
503 5TH AVE NW
DODGE CENTER MN 55927

0103 2 020
FAIRVIEW NURSING HOME
RT 1 BOX 334
DODGE CENTER MN 55927

0104 0 020
FIELD CREST NURSING HOME
RT 2 BOX 6A
HAYFIELD MN 55940

1203 9 020
FOURTH STREET HOUSE
17 4TH STREET SW
KASSON MN 55944

0108 1 021
BETHANY HOME
1020 LARK ST
ALEXANDRIA MN 56308

0111 5 021
DOUGLAS COUNTY HOSPITAL
111 17TH AVENUE EAST
ALEXANDRIA MN 56308

0113 1 021
KNUTE NELSON MEMORIAL HOME
420 12TH AVE E
ALEXANDRIA MN 56308

1015 7 021
PROJECT NEW HOPE INC
BOX 595
ALEXANDRIA MN 56308

1214 6 021
PROJECT NEW HOPE 6
BOX 595
ALEXANDRIA MN 56308

1215 3 021
PROJECT NEW HOPE 7
BOX 595
ALEXANDRIA MN 56308

0110 7 021
CRESTVIEW MANOR INC
PO BOX 176
EVANSVILLE MN 56326

0109 9 021
COMMUNITY MEMORIAL HOME
410 MAIN ST SW
OSAKIS MN 56360

1335 9 021
OSAKIS GROUP HOME
405 LAKE STREET
OSAKIS MN 56360

1018 1 022
ASSISI RESIDENCE I
218 SOUTH LINTON
BLUE EARTH MN 56013

1092 6 022
ASSISI RESIDENCE II
325 WEST SECOND
BLUE EARTH MN 56013

0116 4 022
SAINT LUKES LUTHERAN HOME.
1217 SO RAMSEY
BLUE EARTH MN 56013

0117 2 022
UNITED HOSPITAL BLUE EARTH
515 SOUTH MOORE ST
BLUE EARTH MN 56013

0784 9 022
BEHR PARKVIEW NURSING HOME
55 10TH ST SE
WELLS MN 56097

0119 8 022
WELLS MUNICIPAL HOSP
400 FOURTH AVE SW
WELLS MN 56097

1377 1 022
WINNEBAGO ADOLESCENT TREATME
550 W CLEVELAND
WINNEBAGO MN. 56098

0120 6 022
WINNEBAGO BAPTIST HOME
211 6TH STREET NW
WINNEBAGO MN 56098

0120 6 022
WINNEBAGO BAPTIST HOME
211 6TH STREET NW
WINNEBAGO MN 56098

0750 0 023
CHOSEN VALLEY CARE CENTER
1102 LIBERTY ST SE
CHATFIELD MN 55923

0125 5 023
HARMONY COMM HOSPITAL
815 SO MAIN STREET
HARMONY MN 55939

0125 5 023
HARMONY COMM HOSPITAL
815 SO MAIN STREET
HARMONY MN 55939

1187 4 023
SUNSHINE PLACE
135 CENTER ST E
HARMONY MN 55939

0124 8 023
GREEN LEA MANOR
BOX 306
MABEL MN 55954

0922 5 023
OSTRANDER CARE CENTER
BOX 36
OSTRANDER MN 55961

0128 9 023
PRESTON NURSING HOME
608 WINONA
PRESTON MN 55965

0123 0 023
GOOD SHEPHERD LUTHERAN HOME
800 HOME
RUSHFORD MN 55971

0121 4 023
COMMUNITY MEM HOSP + C+NC
800 MEMORIAL DRIVE
SPRING VALLEY MN 55975

0121 4 023
COMMUNITY MEM HOSP + C+NC
800 MEMORIAL DRIVE
SPRING VALLEY MN 55975

0130 5 024
ALBERT LEA BDG CARE CENTER
315 PARK AVE
ALBERT LEA MN 56007

0131 3 024
ALBERT LEA GOOD SAMARITAN CT
ROUTE 2 BOX 217
ALBERT LEA MN 56007

0134 7 024
ALBERT LEA HEALTH CARE CENTE
617 10TH STREET
ALBERT LEA MN 56007

0132 1 024
BROADWAY CARE HOME
512 SOUTH BROADWAY
ALBERT LEA MN 56007

1019 9 024
CREST HOME OF ALBERT LEA
1205 GARFIELD AVE
ALBERT LEA MN 56007

1390 4 024
FOUNTAIN LAKE TREATMENT CTR
408 FOUNTAIN STREET
ALBERT LEA MN 56007

0920 9 024
NAEVE HOSPITAL
404 FOUNTAIN STREET
ALBERT LEA MN 56007

0137 0 024
NORSTRUDE GUEST HOME
601 EAST 5TH ST
ALBERT LEA MN 56007

0138 8 024
SAINT JOHNS LUTHERAN HOME
901 LUTHER PLACE
ALBERT LEA MN 56007

0833 4 024
THORNE CREST RET CENTER
1201 GARFIELD AVE
ALBERT LEA MN 56007

1307 8 024
WOODVALE V
1204 PLAINVIEW LANE
ALBERT LEA MN 56607

0140 4 025
CANNON FALLS COMM HOSPITAL
1116 MILL STREET WEST
CANNON FALLS MN 55009

0758 3 025
CANNON FALLS MANOR NSG HOME
300 NO DOW STREET
CANNON FALLS MN 55009

0758 3 025
CANNON FALLS MANOR NSG HOME
300 NO DOW STREET
CANNON FALLS MN 55009

0770 8 025
LAKE CITY NURSING HOME
405 WEST GRANT ST
LAKE CITY MN 55041

1165 0 025
RED WING GROUP HOME
4911 WEST HWY 61
RED WING MN 55066

1020 7 025
VASA LUTHERAN HOME FOR CHILD
[redacted]25 W HWY 61
[redacted] WING MN 55066

0917 5 025
ZUMBROTA NURSING HOME
433 MILL STREET
ZUMBROTA MN 55992

0154 5 026
GRANT CO HOSPITAL
PO BOX 5052
ELBOW LAKE MN 56531

1098 3 027
BLOOMINGTON OUTREACH HOME
10633 KELL AVE SO
BLOOMINGTON MN 55437

[redacted]34 4 027
GERARDA HOUSE
6001 W 106TH ST
BLOOMINGTON MN 55438

0232 9 027
MINNESOTA MASONIC HOME
11400 NORMANDALE BLVD
BLOOMINGTON MN 55437

1115 5 027
ST STEPHEN GROUP HOME B
8450 FRANCE AVE SO
BLOOMINGTON MN 55431

1273 2 027
HOMEWARD BOUND BROOKLYN PARK
6745 77TH AVE NO
BROOKLYN PARK MN 55[redacted]

1270 8 025
CANNON VALLEY CENTER
BOX 21
CANNON FALLS MN 55009

0148 7 025
PINE HAVEN NH
210 NW 3RD STREET
PINE ISLAND MN 55963

0149 5 025
RED WING HEALTH CENTER
4TH & JACKSON
RED WING MN 55066

1229 4 025
RIVERVIEW MANOR
RIVERVIEW ROAD
WANAMINGO MN 55983

0156 0 026
PELICAN LAKE NURSING HOME
BOX 227
ASHBY MN 56309

0836 7 026
HOFFMAN CARE CENTER
104 6TH ST SOUTH
HOFFMAN MN 56339

0189 1 027
EAGLE NURSING HOME
401 WEST 95TH ST
BLOOMINGTON MN 55420

0227 9 027
MARTIN LUTHER MANOR
1401 E 100TH STREET
BLOOMINGTON MN 55420

1327 6 027
PENN LAKE HOUSE
8743 PENN AVE SO
BLOOMINGTON MN 55431

1021 5 027
BROOKLYN CTR OUTREACH HOME
507 69TH AVE NO
BROOKLYN CENTER MN 55430

1258 3 027
RESIDENTIAL ALTERNATIVES III
6525 EDGEWOOD AVE NO
BROOKLYN PARK MN 55[redacted]

0145 3 025
KENYON SUNSET HOME
127 GUNDERSON BLVD
KENYON MN 55946

1412 6 025
FULTON RESIDENCE
807 THIRD STREET
RED WING MN 55944

0151 1 025
SAINT JOHNS HOSPITAL-REDWING
1407 FOURTH ST W
RED WING MN 55066

0152 9 025
ZUMBROTA COMMUNITY HOSPITAL
383 W 5TH ST
ZUMBROTA MN 55992

0153 7 026
BARRETT CARE CENTER INC

BARRETT MN 56311

0895 3 027
BLOOMINGTON MAPLE MANOR CARE
8916 LYNDALE AVE SO
BLOOMINGTON MN 55420

1286 4 027
FORESTVIEW SUNLEN
400 EAST 99TH ST
BLOOMINGTON MN 55420

0227 9 027
MARTIN LUTHER MANOR
1401 E 100TH STREET
BLOOMINGTON MN 55420

1360 7 027
REM BLOOMINGTON
9201 CEDAR AVE SO
BLOOMINGTON MN 55420

0226 1 027
MARANATHA CONSERVATIVE HOME
5401 69TH AVE NO
BROOKLYN CENTER MN 55429

0255 0 027
CRYSTAL CARE CENTER
3245 VERA CRUZ AVE N
CRYSTAL MN 55422

0145 3 025
KENYON SUNSET HOME
127 GUNDERSON BLVD
KENYON MN 55946

0787 2 025
HAVEN HOME OF RED WING
213 PIONEER ROAD
RED WING MN 55066

0150 3 025
SEMINARY MEMORIAL HOME
906 COLLEGE AVE
RED WING MN 55066

0917 5 025
ZUMBROTA NURSING HOME
433 MILL STREET
ZUMBROTA MN 55992

1249 2 026
STEFFEN GROUP HOME

BARRETT MN 56311

0171 9 027
BLOOMINGTON NURSING HOME
9200 NICOLLET AVE SOUTH
BLOOMINGTON MN 55420

0806 0 027
FRIENDSHIP VILLAGE
8100 HIGHWOOD DRIVE
BLOOMINGTON MN 55438

0232 9 027
MINNESOTA MASONIC HOME
11400 NORMANDALE BLVD
BLOOMINGTON MN 55437

1114 8 027
ST STEPHEN GROUP HOME A
8450 FRANCE AVE SO
BLOOMINGTON MN 55431

1243 5 027
RESIDENTIAL ALTERNATIVES II
5449 LYNDALE AVE NO
BROOKLYN CENTER MN 55430

1259 1 027
DUNGARVIN V
3157 DOUGLAS DRIVE
CRYSTAL MN 55422

1292 2 027
FORESTVIEW KENTUCKY
4806 KENTUCKY AVE NO
CRYSTAL MN 55428

1405 0 027
PARKVIEW WEST CENTER
14400 MARTIN AVE
EDEN PRAIRIE MN 55344

1149 4 027
NEKTON ON WILLIAM
5100 WILLIAM AVE
EDINA MN 55436

0751 8 027
COURAGE RESIDENCE
7815 GOLDEN VALLEY RD
GOLDEN VALLEY MN 55422

0896 1 027
WELDWOOD HEALTH CARE CENTER
5411 CIRCLE DOWNS
GOLDEN VALLEY MN 55416

1366 4 027
ORONO WOODLANDS
2160 6TH AVE NO
LONG LAKE MN 55356

0242 8 027
ABBOTT NORTHWESTERN HOSPITAL
2727 CHICAGO AVE SO
MINNEAPOLIS MN 55407

0249 0 027
ANDREW CARE HOME
1215 SOUTH 9TH STREET
MINNEAPOLIS MN 55404

0166 9 027
BAPTIST RESIDENCE
512 49TH AVENUE N
MINNEAPOLIS MN 55430

0172 7 027
BORFEN NURSING HOME
2100 FIRST AVE SO
MINNEAPOLIS MN 55404

0179 2 027
CEDAR PINES NURSING HOME
2739 CEDAR AVE
MINNEAPOLIS MN 55407

1393 8 027
MURIEL HUMPHREY RES CARLSON
8751 PRESERVE BLVD
EDEN PRAIRIE MN 55344

0740 1 027
EDINA CARE CENTER
6200 XERXES AVE SO
EDINA MN 55423

0856 5 027
EXCELSIOR NURSING HOME
515 DIVISION STREET
EXCELSIOR MN 55331

0207 1 027
GOLDEN VALLEY HEALTH CENTER
4101 GOLDEN VALLEY RD
GOLDEN VALLEY MN 55422

0727 8 027
CHAPEL VIEW INC
615 MINNETONKA MILLS RD
HOPKINS MN 55343

1401 9 027
RESIDENTIAL ALTERNATIVES X
14850 75TH AVE NO
MAPLE GROVE MN 55369

0242 8 027
ABBOTT NORTHWESTERN HOSPITAL
2727 CHICAGO AVE SO
MINNEAPOLIS MN 55407

0162 8 027
ANGELUS CONVALESCENT HOME
4544 4TH AVE SO
MINNEAPOLIS MN 55409

0167 7 027
BETHANY COVENANT HOME
2309 HAYES ST NE
MINNEAPOLIS MN 55418

0175 0 027
BRYN MAWR NURSING HOME
275 PENN AVE N
MINNEAPOLIS MN 55405

0867 2 027
CENTRAL CARE CENTER
1828 CENTRAL AVE NE
MINNEAPOLIS MN 55418

1394 6 027
MURIEL HUMPHREY RES FRASER
8761 PRESERVE BLVD
EDEN PRAIRIE MN 55344

0201 4 027
FAIRVIEW-SOUTHDALE HOSP
6401 FRANCE AVE SOUTH
EDINA MN 55435

0234 5 027
MINNETONKA HLTH CARE CTR INC
20395 SUMMERVILLE RD
EXCELSIOR MN 55331

0739 3 027
TREVILLA OF GOLDEN VALLEY
7505 COUNTRY CLUB RD
GOLDEN VALLEY MN 55427

0872 2 027
HOPKINS HEALTH CARE CENTER
724 COUNTY ROAD 18
HOPKINS MN 55343

0267 5 027
MAPLES NURSING HOME
1520 WYMAN AVE
MAPLE PLAIN MN 55359

0159 4 027
ALDRICH BOARDING CARE HOME
3101 ALDRICH AVE SO
MINNEAPOLIS MN 55408

0165 1 027
BANNOCHIE NURSING HOME
3515 2ND AVE S
MINNEAPOLIS MN 55408

0167 7 027
BETHANY COVENANT HOME
2309 HAYES ST NE
MINNEAPOLIS MN 55418

0176 8 027
BYWOOD EAST BOARD & CARE HOM
3427 CENTRAL AVE NE
MINNEAPOLIS MN 55418

1023 1 027
CHARLES BRONSTIEN HOME
2644 FREMONT AVE SO
MINNEAPOLIS MN 55408

1396 6 027
MURIEL HUMPHREY RES WESTBY
8771 PRESERVE BLVD
EDEN PRAIRIE MN 55344

0212 1 027
HERITAGE OF EDINA
3456 HERITAGE DRIVE
EDINA MN 55435

0183 4 027
COLONIAL ACRES HEALTH CARE C
5825 ST CROIX AVE
GOLDEN VALLEY MN 55422

0739 3 027
TREVILLA OF GOLDEN VALLEY
7505 COUNTRY CLUB RD
GOLDEN VALLEY MN 55427

0854 0 027
LONG LAKE NURSING HOME
345 BROWN RD SOUTH
LONG LAKE MN 55356

0242 8 027
ABBOTT NORTHWESTERN HOSPITAL
810 EAST 27TH ST
MINNEAPOLIS MN 55407

1175 9 027
AMERICAN INDIAN SERVICES INC
735 EAST FRANKLIN AVE
MINNEAPOLIS MN 55404

0166 9 027
BAPTIST RESIDENCE
512 49TH AVENUE N
MINNEAPOLIS MN 55430

0168 5 027
BIRCHWOOD CARE HOME
715 W 31ST STREET
MINNEAPOLIS MN 55408

0178 4 027
CAREVIEW HOME INC
5517 LYNDALE AVE SO
MINNEAPOLIS MN 55419

0181 8 027
CHATEAU HEALTHCARE CENTER
2106 SECOND AVE SO
MINNEAPOLIS MN 55404

0741 9 027
CHILDRENS HEALTH CENTER INC
2525 CHICAGO AVENUE SO
MINNEAPOLIS MN 55404

0272 5 027
CHRISTIAN UNION HOME
1507 LOWRY AVE NE
MINNEAPOLIS MN 55418

1024 9 027
CLARA DOERR-LINDLEY HALL
1717 2ND AVE SO
MINNEAPOLIS MN 55403

0746 8 027
CLIFTON HOUSE
301 CLIFTON AVE
MINNEAPOLIS MN 55403

0186 7 027
DAVID HERMAN HLTH CARE CTR
2401 CHICAGO AVE SO
MINNEAPOLIS MN 55404

0191 7 027
EBENEZER HALL
2545 PORTLAND AVE SO
MINNEAPOLIS MN 55404

0191 7 027
EBENEZER HALL
2545 PORTLAND AVE SO
MINNEAPOLIS MN 55404

0192 5 027
EBENEZER SOC LUTHER & FIELD
2636 PARK AVE
MINNEAPOLIS MN 55407

0194 1 027
EITEL HOSPITAL
1375 WILLOW STREET
MINNEAPOLIS MN 55403

0195 8 027
ELLIOT AVENUE BCH
1500 ELLIOT AVE
MINNEAPOLIS MN 55404

0892 0 027
EMERSON BOARDING CARE HOME
2708 EMERSON AVE SO
MINNEAPOLIS MN 55408

0198 2 027
FAIR OAKS HEALTH CARE
321 E 25TH STREET
MINNEAPOLIS MN 55404

0223 8 027
FAIRVIEW DEACONESS HOSPITAL
2315 14TH AVE S
MINNEAPOLIS MN 55404

0200 6 027
FAIRVIEW HOSPITAL
2312 SO 6TH ST
MINNEAPOLIS MN 55454

0200 6 027
FAIRVIEW HOSPITAL
2312 SO 6TH ST
MINNEAPOLIS MN 55454

0202 2 027
FIRST CHRISTIAN CHURCH RES
2300 STEVENS. AVE SO
MINNEAPOLIS MN 55404

0202 2 027
FIRST CHRISTIAN CHURCH RFS
2300 STEVENS AVE SO
MINNEAPOLIS MN 55404

1104 9 027
FLAMBEAU-ANESKARN I
1446 WEST 34TH
MINNEAPOLIS MN 55408

1242 7 027
FORESTVIEW JAMES
1616 JAMES AVE NO
MINNEAPOLIS MN 55411

0204 8 027
FRANKLIN NURSING HOME
501 FRANKLIN AVE W
MINNEAPOLIS MN 55405

0208 9 027
GRAND AVE REST HOME
3956 GRAND AVE SO
MINNEAPOLIS MN 55409

0211 3 027
HENNEPIN COUNTY MEDICAL CTR
701 PARK AVE NO
MINNEAPOLIS MN 55415

0816 9 027
HORIZON WEST HEALTH CARE
1620 OAK PARK AVE NO
MINNEAPOLIS MN 55411

0215 4 027
HYLAND PARK NURSING HOME
2304 EMERSON AVE N
MINNEAPOLIS MN 55411

0216 2 027
JONES-HARRISON HOME
3700 CEDAR LAKE AVE
MINNEAPOLIS MN 55416

0216 2 027
JONES-HARRISON HOME
3700 CEDAR LAKE AVE
MINNEAPOLIS MN 55416

0220 4 027
LASALLE CONVALESCENT HOME
1920 LASALLE AVENUE
MINNEAPOLIS MN 55403

1342 5 027
LOGAN
2901 LOGAN AVE NO
MINNEAPOLIS MN 55411

0813 6 027
LORING NURSING HOME
2327 PILLSBURY AVE SO
MINNEAPOLIS MN 55404

1376 3 027
MARIA HOME
420 RIDGEWOOD AVE
MINNEAPOLIS MN 55403

0231 1 027
METROPOLITAN MEDICAL CENTER
900 SOUTH 8TH ST
MINNEAPOLIS MN 55404

1116 3 027
MINNEAPOLIS OUTREACH HOME
5304 STEVENS AVE SO
MINNEAPOLIS MN 55419

0233 7 027
MINNESOTA VETERANS HOME
51 ST AT MINNEHAHA
MINNEAPOLIS MN 55417

0233 7 027
MINNESOTA VETERANS HOME
51 ST AT MINNEHAHA
MINNEAPOLIS MN 55417

0236 0 027
MOUNT OLIVET HOMES INC
5517 LYNDALE AVE S
MINNEAPOLIS MN 55419

0237 8 027
MOUNT SINAI HOSPITAL
2215 PARK AVENUE
MINNEAPOLIS MN 55404

9003 5 027
MPLS VETERANS ADM HOSP
54TH ST + 48TH AVE SO
MINNEAPOLIS MN 55417

1132 0 027
NEKTON IN MINNEHAHA PARK
3822 E 49TH ST
MINNEAPOLIS MN 55417

1130 4 027
NEKTON ON QUEEN
614 QUEEN AVE SO
MINNEAPOLIS MN 55404

1372 2 027
NEW OAK ASPEN
3149 37TH AVE SO
MINNEAPOLIS MN 55406

1361 5 027
NEW VISIONS TREATMENT CENTER
2605 2ND AVE SO.
MINNEAPOLIS MN 55407

0897 9 027
NICOLLET HEALTH CARE CENTER
4429 NICOLLET AVE SO
MINNEAPOLIS MN 55409

1196 5 027
NORTHEAST HOUSE INC
1918 NE 19TH AVE
MINNEAPOLIS MN 55418

0880 5 027
OAK GROVE CARE CENTER
131 OAK GROVE
MINNEAPOLIS MN 55403

0805 2 027
OAK RIDGE CARE CENTER
1300 OLSON MEMORIAL HIGHWAY
MINNEAPOLIS MN 55411

1028 0 027
PORTLAND RESIDENCE INC
1619 PORTLAND AVE
MINNEAPOLIS MN 55404

0160 2 027
REDEEMER RESIDENCE
3111 LYNDALE AVE SO
MINNEAPOLIS MN 55408

1026 4 027
REM PLEASANTVIEW
[redacted]48 PLEASANT AVE SO
[redacted]NNEAPOLIS MN 55404

0260 0 027
SAINT OLAF RESIDENCE
2912 FREMONT AVE N
MINNEAPOLIS MN 55411

0780 7 027
SOUTHSIDE CARE CENTER
2644 ALDRICH AVE SO
MINNEAPOLIS MN 55408

0259 2 027
ST MARYS REHABILITATION CTR
2512 SO 7TH ST
MINNEAPOLIS MN 55454

[redacted]220 5 027
SUMMIT HOUSE
1004 SUMMIT AVE
MINNEAPOLIS MN 55403

1375 5 027
THREE THIRTY FIVE RIDGEWOOD
335 RIDGEWOOD AVE
MINNEAPOLIS MN 55403

0276 6 027
WALKER METH RES & HEALTH CTR
3701 BRYANT AVE SO
MINNEAPOLIS MN 55409

0874 8 027
WILLOWS CONV CENTER CENTRAL
625 EAST 16TH STREET
[redacted]

1162 7 027
OUTREACH NE GROUP HOME
729 ADAMS ST NE
MINNEAPOLIS MN 55413

0890 4 027
PROSPECT PARK HEALTH CENTER
22 27TH AVE SE
MINNEAPOLIS MN 55414

0160 2 027
REDEEMER RESIDENCE
3111 LYNDALE AVE SO
MINNEAPOLIS MN 55408

1122 1 027
REM SOUTHEAST
1307 6TH ST SE
MINNEAPOLIS MN 55414

1147 8 027
SALVATION ARMY HARBOR LIGHT
706 1ST AVE NORTH
MINNEAPOLIS MN 55403

1198 1 027
ST ANNS GROUP HOME
3736 BLAISDELL AVENUE SO
MINNEAPOLIS MN 55409

0262 6 027
STARLITE BOARDING HOME
2430 PILLSBURY AVE SO
MINNEAPOLIS MN 55404

0264 2 027
TEACHERS HOME INFIRMARY
2625 PARK AVE SO
MINNEAPOLIS MN 55407

0273 3 027
UNIVERSITY OF MINN HOSPITALS
412 UNION ST SE
MINNEAPOLIS MN 55455

0276 6 027
WALKER METH RES & HEALTH CTR
3701 BRYANT AVE SO
MINNEAPOLIS MN 55409

0855 7 027
WILLOWS CONV CENTER SOUTH
6130 LYNDALE AVE SO
[redacted]

1341 7 027
PEOPLE INC EPILEPSY PROGRAM
1380 W MINNEHAHA PKWY
MINNEAPOLIS MN 55409

0250 1 027
QUEEN TREATMENT CENTER
300 QUEEN AVE NO
MINNEAPOLIS MN 55405

1142 9 027
REM LYNDALE
2210 LYNDALE AVE NO
MINNEAPOLIS MN 55411

0254 3 027
RIVERVIEW NURSING HOME
4659 LYNDALE AVE NORTH
MINNEAPOLIS MN 55412

1283 1 027
SHANTI HOUSE
4954 UPTON AVE SO
MINNEAPOLIS MN 55410

1233 6 027
ST ANNS RESIDENCE
2120 CLINTON AVE SO
MINNEAPOLIS MN 55404

0263 4 027
STEVENS SQUARE
101 EAST 32ND STREET
MINNEAPOLIS MN 55408

0164 4 027
THE AUGUSTANA HOME OF MPLS
1007 EAST 14TH ST
MINNEAPOLIS MN 55404

1407 6 027
VENTURE GROUP HOME
414 W DIAMOND LAKE RD
MINNEAPOLIS MN 55419

1338 3 027
WELLSPRING THERAPUTIC COMM
245 CLIFTON AVE
MINNEAPOLIS MN 55403

0841 7 027
YORKSHIRE MANOR
2200 PARK AVE SO
[redacted]

0173 5 027
PILLSBURY BOARD & CARE HOME
2500 PILLSBURY AVE SO
MINNEAPOLIS MN 55404

0250 1 027
QUEEN TREATMENT CENTER
300 QUEEN AVE NO
MINNEAPOLIS MN 55405

1029 8 027
REM PILLSBURY
2311 PILLSBURY AVE SO
MINNEAPOLIS MN 55404

0260 0 027
SAINT OLAF RESIDENCE
2912 FREMONT AVE N
MINNEAPOLIS MN 55411

0256 8 027
SHRINERS HOSP CRIPPLED CHILD
2025 E RIVER RD
MINNEAPOLIS MN 55414

0258 4 027
ST MARYS HOSPITAL
2414 SO 7TH ST
MINNEAPOLIS MN 55454

0263 4 027
STEVENS SQUARE
101 EAST 32ND STREET
MINNEAPOLIS MN 55408

0164 4 027
THE AUGUSTANA HOME OF MPLS
1007 EAST 14TH ST
MINNEAPOLIS MN 55404

0275 8 027
VILLA MARIA
719 E 16TH ST
MINNEAPOLIS MN 55404

0874 8 027
WILLOWS CONV CENTER CENTRAL
625 EAST 16TH STREET
MINNEAPOLIS MN 55404

1181 7 027
180 DEGREES, INC
236 CLIFTON AVE
[redacted]

1135 3 027
FORESTVIEW-MINNETONKA
14212 EXCELSIOR BLVD
MINNETONKA MN 55343

1403 5 027
REM MINNETONKA
21 WESTWOOD ROAD
MINNETONKA MN 55435

0238 6 027
NORTH RIDGE CARE CENTER
5430 BOONE AVE NO
NEW HOPE MN 55428

0868 0 027
MONTEREY INN OF OSSEO
525 2ND STREET SE
OSSEO MN 55369

0235 2 027
MISSION FARMS NURSING HOME
3401 MEDICINE LK BLVD
PLYMOUTH MN 55441

1300 3 027
FORESTVIEW VINCENT
7615 VINCENT AVE SO
RICHFIELD MN 55423

0899 5 027
CRYSTAL LAKE HEALTH CARE CTR
3815 WEST BROADWAY
ROBBINSDALE MN 55422

1379 7 027
RESIDENTIAL ALTERNATIVES VII
3801 W BROADWAY
ROBBINSDALE MN 55422

0230 3 027
METHODIST HOSPITAL
6500 EXCELSIOR BLVD
ST LOUIS PARK MN 55426

0826 8 027
PARK PLAZA HEALTHCARE CENTER
3201 VIRGINIA AVE SO
ST LOUIS PARK MN 55426

0278 2 027
WESTWOOD NURSING HOME
7500 W 22ND STREET
ST LOUIS PARK MN 55426

1246 8 027
HAMMER RES GLEASON LAKE RES
16325 CO RD 15
MINNETONKA MN 55391

1274 0 027
RESA ON EDEN PRAIRIE ROAD
5601 EDEN PRAIRIE RD
MINNETONKA MN 55343

0261 8 027
SAINT THERESE HOME
8000 BASS LAKE RD
NEW HOPE MN 55428

1367 2 027
HAZELDEN PIONEER HOUSE
11505 36TH AVE NO
PLYMOUTH MN 55441

0235 2 027
MISSION FARMS NURSING HOME
3401 MEDICINE LK BLVD
PLYMOUTH MN 55441

1237 7 027
PROGRESS VALLEY II
308 EAST 78TH STREET
RICHFIELD MN 55423

1193 2 027
ERINKAY-ANESKARN II
3349 CHOWEN AVE NO
ROBBINSDALE MN 55422

0269 1 027
TREVILLA OF ROBBINSDALE
3130 GRIMES AVE NO
ROBBINSDALE MN 55422

0230 3 027
METHODIST HOSPITAL
6500 EXCELSIOR BLVD
ST LOUIS PARK MN 55426

1160 1 027
PARKVIEW TREATMENT CTR
3705 PARK CTR BLVD
ST LOUIS PARK MN 55416

1034 8 027
HAMMER RESIDENCE
1909 E WAYZATA BLVD
WAYZATA MN 55391

0206 3 027
OAK TERRACE NURSING HOME
CO RD 67
MINNETONKA MN 55343

0898 7 027
AMBASSADOR HEALTH CARE CENTE
8100 MEDICINE LAKE RD
NEW HOPE MN 55427

0261 8 027
SAINT THERESE HOME
8000 BASS LAKE RD
NEW HOPE MN 55428

1293 0 027
LOUIS HOUSE TREATMENT CENTER
115 FORESTVIEW LANE
PLYMOUTH MN 55441

1301 1 027
OUTREACH PLYMOUTH GROUP HOME
2735 OLIVE LANE NORTH
PLYMOUTH MN 55391

1032 2 027
RICHFIELD OUTREACH GROUP HOM
7425 4TH AVE SOUTH
RICHFIELD MN 55423

0240 2 027
NORTH MEMORIAL MEDICAL CENTE
3220 LOWRY AVE NO
ROBBINSDALE MN 55422

0271 7 027
TWIN BIRCH HEALTH CARE CENTE
4527 SHORELINE DRIVE
SPRING PARK MN 55384

1211 2 027
MN JEWISH GROUP HOME
8101 WESTWOOD HILLS DR
ST LOUIS PARK MN 55426

1219 5 027
SUMMIT HOUSE II
4600 MINNETONKA BLVD
ST LOUIS PARK MN 55426

0213 9 027
HILLCREST HEALTH CARE CTR
15409 WAYZATA BLVD
WAYZATA MN 55391

1373 0 027
OAKWOOD RESIDENCE
13403 MCGINTY ROAD
MINNETONKA MN 55343

1086 8 027
HOMEWARD BOUND INC
4741 ZEALAND AVE NO
NEW HOPE MN 55427

0733 6 027
BERKSHIRE RESIDENCE
501 SECOND ST SE
OSSEO MN 55369

1384 7 027
MISSION DETOX & EVALUATION
3409 E MEDICINE LAKE BLVD
PLYMOUTH MN 55441

1308 6 027
VANGUARD EXTENDED CARE
3401 EAST MEDICINE LK BLVD
PLYMOUTH MN 55441

0253 5 027
RICHVIEW
7727 PORTLAND AVE SO
RICHFIELD MN 55423

1290 6 027
RESIDENTIAL ALTERNATIVES IV
2759 FRANCE AVE NO
ROBBINSDALE MN

0790 6 027
GREENWOOD RESIDENCE WEST
6019 W 39TH STREET
ST LOUIS PARK MN 55416

0793 0 027
PARK NURSING + CONV CENTER
4415 W 36 1/2 ST
ST LOUIS PARK MN 55416

0769 0 027
TEXAS TERRACE CONV CENTER
7900 WEST 28TH STREET
ST LOUIS PARK MN 55426

0213 9 027
HILLCREST HEALTH CARE CTR
15409 WAYZATA BLVD
WAYZATA MN 55391

1213 8 027
SHADYWAY GROUP HOME
522 SHADYWAY ROAD
WAYZATA MN 55391

1317 7 028
HOUSTON CO GROUP HOME
109 SO WINNEBAGO ST
CALEDONIA MN 55921

0285 7 028
TWEETEN MEMORIAL HOSPITAL
125 5TH AVE SE
SPRING GROVE MN 55974

0292 3 030
CAMBRIDGE CARE CENTER
548 W FIRST AVE
CAMBRIDGE MN 55008

0295 6 030
MEMORIAL HOSPITAL
725 DELLWOOD
CAMBRIDGE MN 55008

1380 5 031
HAWTHORNE HOUSE
RT 1 BOX 189
ROVEY MN 55709

0297 2 031
ITASCA MEMORIAL HOSPITAL
126 FIRST AVE SE
GRAND RAPIDS MN 55744

0299 8 031
LEISURE HILLS INC
2801 SOUTH POKEGAMA
GRAND RAPIDS MN 55744

0303 8 032
GOOD SAM SUNSET HOME
600 WEST STREET
JACKSON MN 56143

0306 1 032
LAKEFIELD MUNICIPAL HOSP
220 MILWAUKEE STREET
LAKEFIELD MN 56150

0814 4 033
SUNSHINE VILLA
BIRCH MOR MEDICAL PARK
MORA MN 55051

1105 6 027
WAY 12 HALFWAY HOUSE
645 E WAYZATA BLVD
WAYZATA MN 55391

0286 5 028
VALLEY VIEW NURSING HOME
510 EAST CEDAR STREET
HOUSTON MN 55943

1232 8 029
HEARTLAND HOME
7TH ST WEST + FAIR AVE
PARK RAPIDS MN 56470

0293 1 030
CAMBRIDGE STATE SLF UNIT

CAMBRIDGE MN 55008

1371 4 030
RESIDENTIAL ALTERNATIVES VI
CENTRAL AT EAST RUM RIVER D
CAMBRIDGE MN 55008

0296 4 031
COMM MEM HOSP & HOMESTEAD NH
1002 COMSTOCK DRIVE
DEER RIVER MN 56636

0297 2 031
ITASCA MEMORIAL HOSPITAL
126 FIRST AVE SE
GRAND RAPIDS MN 55744

1199 9 032
HERON LAKE HALFWAY HOUSE
PO BOX 413
HERON LAKE MN 56137

0305 3 032
JACKSON MUNICIPAL HOSP
NORTH HIGHWAY
JACKSON MN 56143

1093 4 033
BRIGHTER DAY RESIDENCE INC
620 NORTH WOOD ST
MORA MN 55051

1110 6 034
ATWATER HOUSE
FIFTH AND MINNESOTA AVE
ATWATER MN 56209

0281 6 028
CALEDONIA COMMUNITY HOSP
425 NORTH BADGER
CALEDONIA MN 55921

0819 3 028
LACRESCENT HEALTHCARE CENTER
701 MAIN STREET
LA CRESCENT MN 55947

0287 3 029
ST JOSEPHS HOSPITAL
600 PLEASANT AVE
PARK RAPIDS MN 56470

0294 9 030
GRANDVIEW CHRISTIAN HOME
800 NW 2ND AVE
CAMBRIDGE MN 55008

0300 4 031
NORTHERN ITASCA HOSP DIST

BIGFORK MN 56628

0296 4 031
COMM MEM HOSP & HOMESTEAD NH
1002 COMSTOCK DRIVE
DEER RIVER MN 56636

0298 0 031
ITASCA NURSING HOME
HALE LAKE RD
GRAND RAPIDS MN 55744

0304 6 032
HERON LAKE MUN HOSP & C&NC
941 CO RD 9
HERON LAKE MN 56137

0305 3 032
JACKSON MUNICIPAL HOSP
NORTH HIGHWAY
JACKSON MN 56143

0886 2 033
FIRESIDE FOSTER INN
114 WEST MAPLE STREET
MORA MN 55051

1113 0 034
ST FRANCIS HALFWAY HOUSE
BOX 75
ATWATER MN 56209

0281 6 028
CALEDONIA COMMUNITY HOSP
425 NORTH BADGER
CALEDONIA MN 55921

0285 7 028
TWEETEN MEMORIAL HOSPITAL
125 5TH AVE SE
SPRING GROVE MN 55974

0288 1 029
SUNSET NURSING HOME
WEST 5TH ST
PARK RAPIDS MN 56470

0294 9 030
GRANDVIEW CHRISTIAN HOME
800 NW 2ND AVE
CAMBRIDGE MN 55008

0834 2 031
NORTHERN ITASCA HOSP NH

BIGFORK MN 56628

1172 6 031
CHRISTUS GROUP HOME
510 13TH ST SE
GRAND RAPIDS MN 55744

0298 0 031
ITASCA NURSING HOME
HALE LAKE RD
GRAND RAPIDS MN 55744

0304 6 032
HERON LAKE MUN HOSP & C&NC
941 CO RD 9
HERON LAKE MN 56137

0302 0 032
COLONIAL MANOR
MANOR DRIVE
LAKEFIELD MN 56150

0308 7 033
KANABEC HOSPITAL
300 CLARK ST
MORA MN 55051

0314 5 034
GLEN OAKS NURSING HOME
207 NORTH MAIN
NEW LONDON MN 56273

1036 3 034
ALPHA HOMES INC
137 LAKE AVE NO
SPICER MN 56288

0792 2 034
BETHESDA NH-PLEASANTVIEW
901 WILLMAR AVE SE
WILLMAR MN 56201

1402 7 034
KINDLEHOPE
1217 7TH STREET SE
WILLMAR MN 56201

0318 6 034
WILLMAR STATE HOSP
[redacted]X 1128
[redacted]LLMAR MN 56201

0319 4 035
KARLSTAD MEMORIAL HOSP
1ST AND ROOSEVELT
KARLSTAD MN 56732

0322 8 036
FALLS NURSING HOME
HIGHWAY 11-71
INTERNATIONAL FALLS MN 56649

0326 9 037
JOHNSON MEM HOSP & HOME
WALNUT ST + MEMORIAL PLACE
DAWSON MN 56232

[redacted]62 3 038
CAROMIN HOUSE TWO HARBORS
832 15TH AVENUE
TWO HARBORS MN 55616

0332 7 039
PIONEER NURSING HOME
410 3RD AVE SE
BAUDETTE MN 56623

0336 8 040
MINNESOTA VALLEY MEM HOSP
621 SO FOURTH ST
LE SUEUR MN 56058

0340 0 041
HENDRICKS COMM HOSP
EAST LINCOLN STREET
HENDRICKS MN 56136

1039 7 034
ALEXANDER HOME
901 MEMORIAL PKWY
WILLMAR MN 56201

0313 7 034
CHRISTIAN NURSING+LIVING CEN
1801 WILLMAR AVE
WILLMAR MN 56201

0316 0 034
RICE MEMORIAL HOSPITAL
301 BECKER AVE SW
WILLMAR MN 56201

0318 6 034
WILLMAR STATE HOSP
BOX 1128
WILLMAR MN 56201

0830 0 035
KARLSTAD MEMORIAL NSG CENTER
THIRD & WASHINGTON
KARLSTAD MN 56732

0324 4 036
LITTLEFORK MUN HOSPITAL

LITTLEFORK MN 56653

0328 5 037
MADISON HOSPITAL
820 THIRD AVE
MADISON MN 56256

0331 9 038
LAKEVIEW MEMORIAL HOSPITAL
11TH AVE & 4TH ST
TWO HARBORS MN 55616

0333 5 039
TRINITY HOSPITAL
MAIN AVE AT STIGEN ST
BAUDETTE MN 56623

0337 6 040
SIEMERS BOG CARE HOME
211 SPRUCE AVE
MONTGOMERY MN 56069

0340 0 041
HENDRICKS COMM HOSP
EAST LINCOLN STREET
HENDRICKS MN 56136

0312 9 034
BETHESDA HERITAGE CENTER
1012 E THIRD ST
WILLMAR MN 56201

1099 1 034
FRIENDSHIP HOUSE
901 MEMORIAL PKWY
WILLMAR MN 56201

0918 3 034
WILLMAR HEALTH CARE CENTER
500 RUSSELL STREET
WILLMAR MN 56201

0321 0 035
KITTSON MEMORIAL HOSPITAL
1010 SOUTH BIRCH
HALLOCK MN 56728

1416 7 035
VALLEY GROUP HOME #2
BOX 240 MAIN STREET SO
KARLSTAD MN 56732

0324 4 036
LITTLEFORK MUN HOSPITAL

LITTLFFORK MN 56653

0329 3 037
MADISON LUTHERAN HOME
900 SECOND AVE
MADISON MN 56256

0331 9 038
LAKEVIEW MEMORIAL HOSPITAL
11TH AVE + 4TH ST
TWO HARBORS MN 55616

0800 3 040
CENTRAL HEALTH CARE
444 NORTH CORDOVA
LE CENTER MN 56057

1177 5 040
HOPE RESIDENCES, INC
PAQUIN + HERBERT
WATERVILLE MN 56096

0340 0 041
HENDRICKS COMM HOSPITAL
EAST LINCOLN STREET
HENDRICKS MN 56136

0312 9 034
BETHESDA HERITAGE CENTER
1012 E THIRD ST
WILLMAR MN 56201

1037 1 034
HEATHER HILL
901 MEMORIAL PKWY
WILLMAR MN 56201

0918 3 034
WILLMAR HEALTH CARE CENTER
500 RUSSELL STREET
WILLMAR MN 56201

0321 0 035
KITTSON MEMORIAL HOSPITAL
1010 SOUTH BIRCH
HALLOCK MN 56728

0323 6 036
FALLS MEMORIAL HOSPITAL
1800 THIRD STREET
INTERNATIONAL FALLS MN 56649

0325 1 036
NORTHOME NURSING HOME
BOX 138
NORTHOME MN 56661

0329 3 037
MADISON LUTHERAN HOME
900 SECOND AVE
MADISON MN 56256

0844 1 038
SUNRISE HOME
13TH AVE AND 4TH STREET
TWO HARBORS MN 55616

0336 8 040
MINNESOTA VALLEY MEM HOSP
621 SO FOURTH ST
LE SUEUR MN 56058

0850 8 040
WATERVILLE CARE CENTER
205 1ST ST NORTH
WATERVILLE MN 56096

0339 2 041
DIVINE PROVIDENCE HOSP
312 EAST GEORGE STREET
IVANHOE MN 56142

0339 2 041
DIVINE PROVIDENCE HOSP + HOM
312 EAST GEORGE STREET
IVANHOE MN 56142

0742 7 042
COLONIAL MANOR OF BALATON
PO BOX 375 HWY 14 EAST
BALATON MN 56115

0887 0 042
MINNEOTA MANOR
700 NORTH MONROE STREET
MINNEOTA MN 56264

0345 9 042
TRACY NURSING HOME
SECOND & EMORY STS
TRACY MN 56175

0348 3 043
BURNS MANOR NSG HOME
NORTH HIGH DRIVE
HUTCHINSON MN 55350

0352 5 043
SAINT MARYS HOSP
551 FOURTH ST N
WINSTED MN 55395

1156 9 045
MARSHALL CO GROUP HOME
BOX 117
ARGYLE MN 56713

0884 7 046
SCHMIDTKE REST HOME
CEYLON MN 56121

0360 8 046
LAKEVIEW UNITED METHODIST HO
610 SUMMIT DRIVE
FAIRMONT MN 56031

0364 0 046
TRIMONT COMMUNITY HOSP
11 CHESTNUT
TRIMONT MN 56176

0773 2 047
DASSEL LAKESIDE COMM HOME
441 WILLIAM AVE
DASSEL MN 55325

0338 4 041
AL VADHEIM MEMORIAL HOSP
240 WILLOW ST
TYLER MN 56178

1042 1 042
REM MARSHALL
1003 NORTH 4TH ST
MARSHALL MN 56258

0342 6 042
CHRISTIAN MANOR NURSING HOME
502 FIFTH ST E
TRACY MN 56175

0349 1 043
GLENHAVEN NURSING HOME
1805 CO RD 2
GLENCOE MN 55336

0350 9 043
HUTCHINSON COMMUNITY HOSPITA
CENTURY AVENUE
HUTCHINSON MN 55350

0352 5 043
ST MARYS HOSPITAL
551 FOURTH ST N
WINSTED MN 55395

0356 6 045
GOOD SAMARITAN HOME
410 SO MCKINLEY ST
WARREN MN 56762

0359 0 046
FAIRMONT COMM HOSPITAL
835 JOHNSON STREET
FAIRMONT MN 56031

1205 4 046
REM FAIRMONT
107 DOROTHY STREET
FAIRMONT MN 56031

0365 7 046
TRIMONT NURSING HOME
303 BROADWAY AVE SO
TRIMONT MN 56176

0369 9 047
BETHANY HOME
203 NO ARMSTRONG
LITCHFIELD MN 55355

0338 4 041
AL VADHEIM MEMORIAL HOSPITAL
240 WILLOW ST
TYLER MN 56178

0343 4 042
WEINER MEM MEDICAL CTR
300 SO BRUCE ST
MARSHALL MN 56258

0344 2 042
TRACY MUNICIPAL HOSPITAL
5TH STREET EAST
TRACY MN 56175

0351 7 043
MUNICIPAL HOSPITAL
705 WEST 18TH ST
GLENCOE MN 55336

1387 0 043
ALICE HANEY ANNEX
LESTER PRAIRIE MN 55354

0353 3 044
MAHNOMEN CO & VILLAGE HOSP
MAHNOMEN MN 56557

0871 4 045
WARREN HOSPITAL
109 SO MINNESOTA ST
WARREN MN 56762

0359 0 046
FAIRMONT COMM HOSPITAL
835 JOHNSON STREET
FAIRMONT MN 56031

1045 4 046
FRIENDSHIP HAVEN I
FOX LAKE RD
SHERBURN MN 56171

0361 6 046
LUTHERAN RET HOME OF SO MINN
400 NORTH 4TH AVE EAST
TRUMAN MN 56088

0775 7 047
EMMANUEL HOME
600 SOUTH DAVIS
LITCHFIELD MN 55355

1247 6 041
REM-TYLER
303 HIGHLAND COURT
TYLER MN 5617

0343 4 042
WEINER MEM MEDICAL CTR
300 SO BRUCE ST
MARSHALL MN 5625

0345 9 042
TRACY NURSING HOME
SECOND & EMORY STS
TRACY MN 5617

1168 4 043
AVEYRON HOMES INC
851 DALE ST
HUTCHINSON MN 5535

1386 2 043
ALICE HANEY HOME
LESTER PRAIRIE MN 5535

0353 3 044
MAHNOMEN CO & VILLAGE HOSP
MAHNOMEN MN 5655

0884 7 046
SCHMIDTKE REST HOME
CEYLON MN 5612

0360 8 046
LAKEVIEW UNITED METHODIST HO
610 SUMMIT DRIVE
FAIRMONT MN 5603

1238 5 046
FRIENDSHIP HAVEN II
FOX LAKE RD
SHERBURN MN 5617

0785 6 047
COSMOS HEALTHCARE CENTER
COSMOS MN 5622

1280 7 047
MEEKER CO COMM HOME
504 SOUTH MARSHALL
LITCHFIELD MN 5535

DASSEL LAKESIDE COMM HOME
441 WILLIAM AVE
DASSEL MN 55325

BETHANY HOME
203 NO ARMSTRONG
LITCHFIELD MN 55355

EMMANUEL HOME
600 SOUTH DAVIS
LITCHFIELD MN 55355

MEEKER CO COMM HOME
504 SOUTH MARSHALL
LITCHFIELD MN 55355

0370 7 047
MEEKER CO MEM HOSP
612 SO SIBLEY AVE
LITCHFIELD MN 55355

0798 9 047
HILLTOP NURSING HOME
RT 1 BOX H
WATKINS MN 55389

0376 4 048
ELIM HOME
730 SECOND ST SE
MILACA MN 56353

0377 2 048
MILACA AREA HOSPITAL
150 TENTH ST NORTHWEST
MILACA MN 56353

0374 9 048
COMMUNITY MERCY HOSP
200 N ELM STREET
ONAMIA MN 56359

0374 9 048
COMMUNITY MERCY HOSP
200 N ELM STREET
ONAMIA MN 56359

0375 6 048
ELIM HOME
101 SO 7TH AVE
PRINCETON MN 55371

0373 1 048
PRINCETON AREA HOSPITAL
704 FIRST STREET
PRINCETON MN 55371

1304 5 048
SAHARA HOUSE
407 5TH AVE SO
PRINCETON MN 55371

1161 9 049
CHRISTUS GROUP HOME
315 SW 6TH STREET
LITTLE FALLS MN 56345

0382 2 049
LUTHERAN SENIOR CITIZENS HOM
1200 FIRST AVE NE
LITTLE FALLS MN 56345

0383 0 049
ST GABRIELS HOSP
8TH AVE & 2ND ST SE
LITTLE FALLS MN 56345

0817 7 049
ST OTTOS HOME
920 SE 4TH STREET
LITTLE FALLS MN 56345

0384 8 049
ST MARYS VILLA NH
FIRST AVE SO
PIERZ MN 56364

0384 8 049
ST MARYS VILLA NH
FIRST AVE SO
PIERZ MN 56364

1417 5 050
ADAMS GROUP HOME
PO BOX 344
ADAMS MN 55909

0754 2 050
ADAMS HEALTH CARE CENTER
RURAL ROUTE 2 BOX 300
ADAMS MN 55909

1124 7 050
AGAPE HALFWAY HOUSE
200 SW 5TH ST
AUSTIN MN 55912

0392 1 050
BURR OAK MANOR
400 10TH AVE NW
AUSTIN MN 55912

1276 5 050
CEDAR I
207 SW 1ST AVE
AUSTIN MN 55912

1303 7 050
CEDAR II
601 13TH AVE SE
AUSTIN MN 55912

1305 2 050
CEDAR III
1921 6TH AVE NW
AUSTIN MN 55912

1306 0 050
CEDAR IV
108 16TH AVE SE
AUSTIN MN 55912

0840 9 050
COMFORCARE CENTER
205 14TH ST NW
AUSTIN MN 55912

0393 9 050
SACRED HEART HOSPICE
1200 12TH ST SW
AUSTIN MN 55912

0393 9 050
SACRED HEART HOSPICE
1200 12TH ST SW
AUSTIN MN 55912

0394 7 050
SAINT MARKS LUTHERAN HOME
400 15TH AVE SW
AUSTIN MN 55912

0395 4 050
SAINT OLAF HOSPITAL
300 8TH AVE NW
AUSTIN MN 55912

1048 8 050
WOODVALE III
1209 1ST ST NE
AUSTIN MN 55912

0390 5 050
MEADOW MANOR NURSING HOME
210 E GRAND AVE
GRAND MEADOW MN 55936

0396 2 051
MAPLE LAWN NURSING HOME
400 SEVENTH STREET
FULDA MN 56131

1087 6 051
NEW DAWN INC
307 SO LAFAYETTE AVE
FULDA MN 56131

0397 0 051
MURRAY COUNTY MEM HOSP
2042 JUNIPER AVE
SLAYTON MN 56172

0915 9 051
SLAYTON MANOR
2957 REDWOOD
SLAYTON MN 56172

0401 0 052
LAFAYETTE GOOD SAM CENTER
PARK AVE BOX 19
LAFAYETTE MN 56054

0399 6 052
COMMUNITY HOSP + HCC
618 W BROADWAY
ST PETER MN 56082

0399 6 052
COMMUNITY HOSP + HCC
618 W BROADWAY
ST PETER MN 56082

0400 2 052
GRANDVIEW CARE CENTER
830 NORTH SUNRISE DRIVE
ST PETER MN 56082

1418 3 052
MN SUPERVISED LIVING FACILIT
100 FREEMAN DRIVE
ST PETER MN 56082

1418 3 052
MN SUPERVISED LIVING FACILIT
100 FREEMAN DRIVE
ST PETER MN 56082

0403 6 052
ST PETER STATE HOSPITAL
100 FREEMAN DRIVE
ST PETER MN 56082

0403 6 052
ST PETER STATE HOSPITAL
100 FREEMAN DRIVE
ST PETER MN 56082

0405 1 053
ARNOLD MEM HOSPITAL
601 LOUISIANA AVE
ADRIAN MN 56110

0405 1 053
ARNOLD MEM HOSPITAL
601 LOUISIANA AVE
ADRIAN MN 56110

0406 9 053
PARKVIEW MANOR
RR 1 BOX 152
ELLSWORTH MN 56129

0407 7 053
FAUSKEE NURSING HOME INC
965 MCMILLAN ST
WORTHINGTON MN 56187

0885 4 053
LAKE HAVEN NURSING HOME
1307 SOUTH SHORE DRIVE
WORTHINGTON MN 56187

1235 1 053
MCMILLAN HOME
1205 BURLINGTON AVE
WORTHINGTON MN 56187

1278 1 053
PROJECT INDEPENDENCE RIDGEWO
1381 KNOLLWOOD DRIVE
WORTHINGTON MN 56187

1100 7 053
SOUTHWEST MANOR
921 SEVENTH AVENUE
WORTHINGTON MN 56187

1264 1 053
UNITY HOUSE
1224 FOURTH AVE
WORTHINGTON MN 56187

0412 7 053
WORTHINGTON REGIONAL HOSP
1018 6TH AVE
WORTHINGTON MN 56187

0412 7 053
WORTHINGTON REGIONAL HOSP
1018 6TH AVE
WORTHINGTON MN 56187

0413 5 054
ADA MUNICIPAL HOSPITAL
405 EAST 2ND AVE
ADA MN 56510

0413 5 054
ADA MUNICIPAL HOSPITAL
405 EAST 2ND AVE
ADA MN 56510

1388 8 054
PROJECT NEW HOPE ADA 1
207 JAMISON DRIVE
ADA MN 56510

1389 6 054
PROJECT NEW HOPE ADA 2
21 EAST 4TH AVE
ADA MN 56510

0764 1 054
HALSTAD LUTHERAN MEM HOME
133 4TH AVE EAST
HALSTAD MN 56548

0414 3 054
LUTHERAN MEMORIAL NH
HIGHWAY 32 NORTH
TWIN VALLEY MN 56584

0415 0 054
LUTHERAN MEMORIAL RET CTR
205 3RD ST NW
TWIN VALLEY MN 56584

1188 2 055
BEAR CREEK HOUSE
812 10TH AVE S E
ROCHESTER MN 55901

0883 9 055
BETHANY SAMARITAN HEIGHTS
1530 11TH AVE NW
ROCHESTER MN 55901

1139 5 055
GUEST HOUSE
P O BOX 954
ROCHESTER MN 55901

1414 2 055
HIAWATHA ADULT HOME
2020 FIFTH ST NW
ROCHESTER MN 55901

1383 9 055
HIAWATHA INTERIM ADULT HOME
EAST CENTER ST BLDG 8
ROCHESTER MN 55901

1126 2 055
HIAWATHAS CHILDRENS HOME
1820 VALKYRIE DR NW
ROCHESTER MN 55901

0419 2 055
MADONNA TOWERS INC
4001 19TH AVE NW
ROCHESTER MN 55901

0916 7 055
MAPLE MANOR NURSING HOME
1875 19TH STREET NW
ROCHESTER MN 55901

0916 7 055
MAPLE MANOR NURSING HOME
1875 19TH STREET NW
ROCHESTER MN 55901

1252 6 055
MEADOW PARK HOUSE
1605 8TH AVE SE
ROCHESTER MN 55901

0422 6 055
OLMSTED COMM HOSPITAL
1650 FOURTH ST SE
ROCHESTER MN 55901

1164 3 055
PINE CIRCLE COMM LIVING CTR
1612 E CENTER COURT
ROCHESTER MN 55901

1322 7 055
REM ROCHESTER NW
2509 55TH ST NW
ROCHESTER MN 55901

1320 1 055
REM ROCHESTER SE
1631 19TH AVE SE
ROCHESTER MN 55901

0795 5 055
ROCHESTER HEALTHCARE CENTER
2215 HWY 52 NO
ROCHESTER MN 55901

0423 4 055
ROCHESTER METHODIST HOSP
201 WEST CENTER ST
ROCHESTER MN 55901

0427 5 055
SAMARITAN BETHANY HOME
24 8TH ST NW
ROCHESTER MN 55901

1121 3 055
SIXTH STREET HOUSE
805 6TH STREET SE
ROCHESTER MN 55901

1323 5 055
SOUTHSIDE HOUSE
1416 FOURTH ST SE
ROCHESTER MN 55901

0428 3 055
ST MARYS HOSPITAL
1216 2ND ST SW
ROCHESTER MN 55901

0425 9 055
TOWN HALL ESTATES
607 EAST CENTER STREET
ROCHESTER MN 55901

0418 4 055
WOODSIDE CONVALESCENT CENTER
501 8TH AVE SE
ROCHESTER MN 55901

0429 1 055
STEWARTVILLA NURSING HOME
120 4TH ST NE
STEWARTVILLE MN 55976

0747 6 056
BATTLE LAKE NURSING HOME
GLENHAVEN DRIVE
BATTLE LAKE MN 56515

OTTER TAIL NURSING HOME
BOX 257
BATTLE LAKE MN 56515

0433 3 056
FERGUS FALLS STATE HOSP
CORNER FIR AND UNION
FERGUS FALLS MN 56537

0437 4 056
LAKE REGION HOSPITAL
712 SO CASCADE
FERGUS FALLS MN 56537

1221 1 056
PROJECT NEW HOPE - 1
527 WEST CEDAR
FERGUS FALLS MN 56308

0432 5 056
ELDERS HOME

NEW YORK MILLS MN 56567

0435 8 056
GOOD SAMARITAN CENTER
119 BROADWAY
PELICAN RAPIDS MN 56572

0438 2 056
PERHAM MEMORIAL HOSP & HOME
665 THIRD ST SW
PERHAM MN 56573

1251 8 057
JOHNSONS RIVERSIDE BDG HOME
R R 24 BOX 12
THIEF RIVER FALLS MN 56701

0450 7 057
VALLEY HOME
HWY 32 SO ARNOLD
THIEF RIVER FALLS MN 56701

0453 1 058
SANDSTONE AREA HOSPITAL
317 COURT AVE
SANDSTONE MN 55072

0455 6 059
GOOD SAMARITAN VILLAGE
RT 1 NORTH HIAWATHA
PIPESTONE MN 56164

PELESKE GROUP HOME
RR 1
DENT MN 56528

0433 3 056
FERGUS FALLS STATE HOSP
CORNER FIR AND UNION
FERGUS FALLS MN 56537

0437 4 056
LAKE REGION HOSPITAL
712 SO CASCADE
FERGUS FALLS MN 56537

1222 9 056
PROJECT NEW HOPE-2
1505 SOUTH ARLINGTON
FERGUS FALLS MN 56308

0439 0 056
NEW YORK MILLS COMM HOSP
PO BOX H
NEW YORK MILLS MN 56567

0442 4 056
PELICAN VALLEY HEALTH CENTER
211 EAST MILL ST
PELICAN RAPIDS MN 56572

1053 8 056
SHELTON GROUP HOME
RT 1
RICHVILLE MN 56576

0448 1 057
NORTHWESTERN HOSPITAL & NH
120 SO LABREE AVE
THIEF RIVER FALLS MN 56701

0451 5 058
LAKESIDE NURSING HOME
129 E 6TH ST
PINE CITY MN 55063

0452 3 058
SANDSTONE AREA NURSING HOME
WASHINGTON STREET
SANDSTONE MN 55072

1140 3 059
HIAWATHA MANOR
107 5TH AVE NE
PIPESTONE MN 56164

0862 3 056
BROEN MEMORIAL HOME
420 ALCOTT AVE EAST
FERGUS FALLS MN 56537

1050 4 056
KOFP GROUP HOME
ROUTE 3
FERGUS FALLS MN 56537

0443 2 056
PIONEER HOME
1006 SOUTH SHERIDAN STREET
FERGUS FALLS MN 56537

1223 7 056
PROJECT NEW HOPE-3
720 WEST DOUGLAS
FERGUS FALLS MN 56308

0441 6 056
PARKERS PRAIRIE DIST HOSP

PARKERS PRAIRIE MN 56351

0442 4 056
PELICAN VALLEY HEALTH CTR
211 EAST MILL ST
PELICAN RAPIDS MN 56572

0445 7 057
CRESTVIEW HOME
101 SO STATE AVE
THIEF RIVER FALLS MN 56701

0448 1 057
NORTHWESTERN HOSPITAL & NH
120 SO LABREE AVE
THIEF RIVER FALLS MN 56701

9004 3 058
HOSP-FED CORRECTIONAL INST

SANDSTONE MN 55072

0454 9 059
EDGEBROOK REST CENTER INC
505 TROSKY ROAD WEST
EDGERTON MN 56128

0456 4 059
PIPESTONE COUNTY HOSP
911 5TH AVE SW
PIPESTONE MN 56164

0862 3 056
BROEN MEMORIAL HOME
420 ALCOTT AVE EAST
FERGUS FALLS MN 56537

1051 2 056
LAKE PARK-WILD RICE CH HOME
SOUTH MAYBELLE
FERGUS FALLS MN 56537

1212 0 056
PIPER GROUP HOME
ROUTE 6 BOX 102
FERGUS FALLS MN 56537

0799 7 056
HENNING NURSING HOME
907 MARSHALL AVE
HENNING MN 56551

0444 0 056
SAINT WILLIAMS NSG HOME
500 STREET
PARKERS PRAIRIE MN 56361

0438 2 056
PERHAM MEMORIAL HOSP & HOME
665 THIRD ST SW
PERHAM MN 56573

1230 2 057
HANSONS BOARDING HOME
1023 NORTH DEWEY
THIEF RIVER FALLS MN 56701

0449 9 057
OAKLAND PARK NURSING HOME
123 BAKEN ST
THIEF RIVER FALLS MN 56701

1314 4 058
PINE COUNTY GROUP HOME
206 COMMERCIAL
SANDSTONE MN 55072

0455 6 059
GOOD SAMARITAN VILLAGE
RT 1 NORTH HIAWATHA
PIPESTONE MN 56164

0456 4 059
PIPESTONE COUNTY HOSP
911 5TH AVE SW
PIPESTONE MN 56164

1241 9 059
NEW LIFE TREATMENT CENTER
PO BOX 38
WOODSTOCK MN 56186

1176 7 060
CROOKSTON GROUP HOME 1
315 SUMMIT AVE
CROOKSTON MN 56716

1350 8 060
CROOKSTON GROUP HOME 2
1423 FOSKETT
CROOKSTON MN 56716

0470 5 060
RIVERVIEW HOSPITAL
323 SO MINNESOTA
CROOKSTON MN 56716

0470 5 060
RIVERVIEW HOSPITAL
323 SO MINNESOTA
CROOKSTON MN 56716

0815 1 060
VILLA ST VINCENT
516 WALSH
CROOKSTON MN 56716

0815 1 060
VILLA ST VINCENT
516 WALSH
CROOKSTON MN 56716

1298 9 060
EAST GRAND FORKS GROUP HOME
1924 5TH AVE NW
EAST GRAND FORKS MN 56761

0463 0 060
GOOD SAMARITAN CENTER
1414 20TH STREET NW
EAST GRAND FORKS MN 56721

0464 8 060
JOHNSON REST HOME
VANCE AVE NO
ERSKINE MN 56535

0469 7 060
PIONEER MEMORIAL HOME
BOX 189 HWY 59 & 2
ERSKINE MN 56535

0460 6 060
FAIR MEADOW NURSING HOME
BOX 8
FERTILE MN 56540

1185 8 060
FOSSTON GROUP HOME
NORTH MARK AVE
FOSSTON MN 56542

0461 4 060
FOSSTON MUN HOSP + HOME
900 HILLIGOSS
FOSSTON MN 56542

0461 4 060
FOSSTON MUN HOSP + HOME
900 HILLIGOSS
FOSSTON MN 56542

0466 3 060
JOHNSON REST HOME
516 2ND ST NE
FOSSTON MN 56542

0462 2 060
MIDWAY RDG CARE HOME INC
114 SECOND STREET NE
FOSSTON MN 55542

0467 1 060
MCINTOSH NURSING HOME INC
245 NORTH STATE
MCINTOSH MN 56556

0879 7 060
RIVERSIDE BOARD & CARE
240 1ST STREET NE
MCINTOSH MN 56556

0473 9 061
GLACIAL RIDGE HOSPITAL
10 4TH AVE SE
GLENWOOD MN 56334

0474 7 061
GLENWOOD RET HOME INC
719 SE 2ND ST
GLENWOOD MN 56334

0474 7 061
GLENWOOD RET HOME INC
719 SE 2ND ST
GLENWOOD MN 56334

0835 9 061
LAKEVIEW CARE CENTER
FRANKLIN AT LAKESHORE DR
GLENWOOD MN 56334

0476 2 061
MINNEWASKA DISTRICT HOSP
610 W 6TH ST
STARBUCK MN 56381

0477 0 061
MINNEWASKA LUTHERAN HOME
605 MAIN ST BOX 5600
STARBUCK MN 56381

0477 0 061
MINNEWASKA LUTHERAN HOME
BOX 5600
STARBUCK MN 56381

1208 8 061
PROJECT NEW HOPE-STARBUCK
BOX 595
STARBUCK MN 56381

1378 9 062
ACR HOMES-CUMMINGS
1385 CUMMINGS LANE
ARDEN HILLS MN 55112

0532 2 062
PRESBYTERIAN HOMES
3220 LAKE JOHANNA BLVD
ARDEN HILLS MN 55112

0532 2 062
PRESBYTERIAN HOMES
3220 LAKE JOHANNA BLVD
ARDEN HILLS MN 55112

1143 7 062
NEKTON ON SEXTANT
332 SEXTANT
LITTLE CANADA MN 55117

0900 1 062
MAPLEWOOD MAPLE MANOR CARE C
550 EAST ROSELAWN AVE
MAPLEWOOD MN 55117

1054 6 062
NEKTON ON FROST
1695 FROST AVE
MAPLEWOOD MN 55109

0846 6 062
RAMSEY NURSING HOME
2000 WHITE BEAR AVE
MAPLEWOOD MN 55109

1158 5 062
SUR LA RUE DE SKILLMAN
373 SKILLMAN AVE
MAPLEWOOD MN 55117

0493 7 062
INNSBRUCK HEALTHCARE CENTER
2800 HWY 694
NEW BRIGHTON MN 55112

0507 4 062
NEW BRIGHTON CARE CENTER
550 8TH ST NW
NEW BRIGHTON MN 55112

0534 8 062
TREVILLA OF NEW BRIGHTON
825 FIRST AVE NW
NEW BRIGHTON MN 55112

0520 7 062
MAPLEWOOD CARE CENTER
1900 SHERREN AVE EAST
NORTH ST PAUL MN 55109

0498 6 062
NORTH ST PAUL NURSING HOME
2375 SKILLMAN AVE EAST
NORTH ST PAUL MN 55109

1127 0 062
DUNGARVIN II INC
3101 WEST OWASSO BLVD
ROSEVILLE MN 55112

0901 9 062
GOLDEN AGE HEALTH CARE CENTE
1415 WEST CO RD B
ROSEVILLE MN 55113

0497 8 062
LAKE RIDGE HEALTH CARE CENTE
2727 NO VICTORIA
ROSEVILLE MN 55113

0518 1 062
ROSE OF SHARON MANOR
1000 LOVELL AVENUE
ROSEVILLE MN 55113

0902 7 062
WHITEHOUSE HEALTH CARE CENTE
563 WEST CO RD B
ROSEVILLE MN 55113

1103 1 062
THE RESIDENCE I
935 AMBLE RD
SHOREVIEW MN 55112

1287 2 062
AURORA HOUSE
2134 MARSHALL AVE
ST PAUL MN 55104

0802 9 062
CHILDRENS HOSPITAL
[redacted] NORTH SMITH
[redacted] PAUL MN 55102

1112 2 062
DUNGARVIN I
1086 COMO PLACE
ST PAUL MN 55103

1294 8 062
FELLOWSHIP CLUB
680 STEWART AVENUE
ST PAUL MN 55102

0490 3 062
GREENBRIER HOME INC
941 BIRMINGHAM
ST PAUL MN 55106

[redacted] 9 062
[redacted]WITT HOUSE OF PEOPLE INC
1593 HEWITT AVE
ST PAUL MN 55102

1097 5 062
KENT HOUSE OF PEOPLE INC
197 NO KENT ST
ST PAUL MN 55102

0504 1 062
MIDWAY HOSPITAL
1700 UNIVERSITY AVE
ST PAUL MN 55104

0506 6 062
MOUNDS PARK REST HOME
908 MOUND ST
ST PAUL MN 55106

0831 8 062
LAKE OWASSO RESIDENCE
210 OWASSO BLVD NO
SHOREVIEW MN 55112

1170 0 062
THE RESIDENCE II
925 AMBLE ROAD
SHOREVIEW MN 55112

0913 4 062
BETHEL CARE CENTER
420 MARSHALL AVE
ST PAUL MN 55102

0483 8 062
COMMONWEALTH HEALTHCARE CENT
2237 COMMONWEALTH AVE
ST PAUL MN 55108

1182 5 062
DUNGARVIN III
1270 E LARPENTEUR AVE
ST PAUL MN 55109

0488 7 062
GILLETTE CHILDRENS HOSPITAL
200 UNIVERSITY AVE E
ST PAUL MN 55106

1245 0 062
GREENWOOD RESIDENCE EAST
1609 JACKSON ST
ST PAUL MN 55117

0494 5 062
HIGHLAND CHATEAU INC
2319 W SEVENTH ST
ST PAUL MN 55116

0763 3 062
LITTLE SISTERS OF THE POOR
330 SO EXCHANGE ST
ST PAUL MN 55102

0499 4 062
MIDWAY MANOR INC
375 NO LEXINGTON PKWY
ST PAUL MN 55104

1055 3 062
NEKTON ON GOODRICH
917 GOODRICH AVE
ST PAUL MN 55105

1395 3 062
MOORES HAVEN DUNGARVIN VI
3490 NORTH VICTORIA
SHOREVIEW MN 55112

0522 3 062
ST ANTHONY HEALTH CENTER
3700 FOSS ROAD NE
ST ANTHONY VILLAGE MN 55421

0479 6 062
BETHESDA LUTHERAN HOSPITAL
559 CAPITOL BLVD
ST PAUL MN 55101

0484 6 062
DAYTON BOARDING CARE HOME .
740 DAYTON AVE
ST PAUL MN 55104

0486 1 062
EPISCOPAL CHURCH HOME OF MN
1879 FERONIA AVE
ST PAUL MN 55104

1382 1 062
GOOD NEIGHBOR HOME EDMUND
1159 EDMUND AVE
ST PAUL MN 55104

0492 9 062
HARMONY NURSING HOME
135 E GERANIUM AVE
ST PAUL MN 55117

0495 2 062
HOIKKA HOUSE INC
238 PLEASANT AVE
ST PAUL MN 55102

0501 7 062
LYNGBLOMSTEN CARE CENTER
1415 ALMOND AVENUE
ST PAUL MN 55108

1368 0 062
MN JEWISH GROUP HOME II
1778 ROME AVENUE
ST PAUL MN 55103

1056 1 062
NEKTON ON MISSISSIPPI
1866 MISSISSIPPI BLVD
ST PAUL MN 55116

1370 6 062
NEKTON ON HODGSON ROAD
5091 HODGSON ROAD
SHOREVIEW MN 55112

0777 3 062
AMY JOHNSON RESIDENCE
89 VIRGINIA STREET
ST PAUL MN 55102

0882 1 062
BETHESDA LUTHERAN INFIRMARY
558 CAPITOL BLVD
ST PAUL MN 55103

1094 2 062
DAYTON HOUSE OF PEOPLE INC
565 DAYTON AVE
ST PAUL MN 55102

0486 1 062
EPISCOPAL CHURCH HOME OF MN
1879 FERONIA AVE
ST PAUL MN 55104

1257 5 062
GOOD NEIGHBOR HOMES
1081 FAIRMOUNT AVE
ST PAUL MN 55104

0928 2 062
HAYES HAVEN RESIDENCE
1620 RANDOLPH AVE
ST PAUL MN 55105

1096 7 062
HOPE TRANSITION CENTER INC
1471 COMO AVE
ST PAUL MN 55108

0502 5 062
LYNNHURST HEALTHCARE CENTER
471 LYNNHURST AVE W
ST PAUL MN 55104

0505 8 062
MOUNDS PARK HOSPITAL
200 EARL STREET
ST PAUL MN 55106

1106 4 062
NEKTON ON WHEELER
148 WHEELER AVE SO
ST PAUL MN 55105

NEKTON ON WYOMING
445 E WYOMING
ST PAUL MN 55107

1391 2 062
NEW DIRECTIONS
1143 CHURCHILL AVE
ST PAUL MN 55103

0869 8 062
OUR LADY OF GOOD COUNSEL
2076 ST ANTHONY AVE
ST PAUL MN 55104

1195 7 062
PHOENIX RESIDENCE INC
135 COLORADO ST EAST
ST PAUL MN 55107

0480 4 062
REGENCY MANOR INC
445 GALTIER STREET
ST PAUL MN 55103

0523 1 062
ST JOHNS HOSPITAL
403 MARIA AVE
ST PAUL MN 55106

0527 2 062
ST PAUL RAMSEY MED CENTER
640 JACKSON STREET
ST PAUL MN 55101

1239 3 062
SUR LA RUE DE BREEN
1174 BREEN STREET
ST PAUL MN 55106

1289 8 062
THE RESIDENCE III
1968 FOXRIDGE RD
ST PAUL MN 55106

0525 6 062
UNITED HOSPITAL & NH
333 NORTH SMITH
ST PAUL MN 55102

0514 0 062
WILDER RESIDENCE EAST
696 DELLWOOD PLACE
ST PAUL MN 55106

NEW CONNECTION
176 PROSPECT BLVD
ST PAUL MN 55107

1236 9 062
NORHAVEN
1394 JACKSON ST
ST PAUL MN 55117

0910 0 062
PARKWAY MANOR
324 JOHNSON PARKWAY
ST PAUL MN 55106

0511 6 062
PINEVIEW RESIDENCE
69 NORTH MILTON
ST PAUL MN 55104

0876 3 062
RIVERVIEW MEMORIAL HOSPITAL
225 PRESCOTT STREET
ST PAUL MN 55107

0523 1 062
ST JOHNS HOSPITAL
403 MARIA AVE
ST PAUL MN 55106

0528 0 062
ST PAULS CHURCH HOME
484 ASHLAND AVE
ST PAUL MN 55102

1201 3 062
SUR LA RUE DE WHEELOCK RIDGE
1561 WHEELOCK RIDGE
ST PAUL MN 55102

0535 5 062
TWIN CITY LINNEA HOME
2040 WEST COMO AVE
ST PAUL MN 55108

1351 6 062
WICKLOUGH
905 EAST 7TH STREET
ST PAUL MN 55106

0891 2 062
WILDER RESIDENCE WEST
514 HUMBOLDT AVE
ST PAUL MN 55107

NEW CONNECTION A
444 LYNNHURST AVE
ST PAUL MN 55104

1102 3 062
OUR HOUSE OF MINN INC 1
1846 DAYTON AVE
ST PAUL MN 55104

1325 0 062
PEOPLES CHILD CARE RESIDENCE
1611 AMES AVE
ST PAUL MN 55106

0863 1 062
PLEASANT HILL CARE CENTER
391 PLEASANT AVE
ST PAUL MN 55102

0927 4 062
SAMARITAN HOSPITAL
1515 CHARLES AVE
ST PAUL MN 55104

0524 9 062
ST JOSEPHS HOSPITAL
69 W EXCHANGE ST
ST PAUL MN 55102

1272 4 062
STEVENCROFT
1436 ASHLAND AVE
ST PAUL MN 55104

1269 0 062
TEAM HOUSE
54 W EXCHANGE ST
ST PAUL MN 55102

1200 5 062
TWIN TOWN TREATMENT CENTER
1706 UNIVERSITY AVE
ST PAUL MN 55104

0538 9 062
WILDER HEALTH CARE CENTER
512 HUMBOLDT AVE
ST PAUL MN 55107

1344 1 062
WILSON APARTMENTS
1975 WILSON AVE
ST PAUL MN 55106

NEW CONNECTION PRIM TREATMEN
73 LEECH STREET
ST PAUL MN 55102

1173 4 062
OUR HOUSE OF MINN INC 2
1846 PORTLAND AVE
ST PAUL MN 55104

1197 3 062
PETRA HOWARD HOUSE
700 EAST 8TH ST
ST PAUL MN 55106

0533 0 062
QUINLAN HOME
233 WEST FIFTH ST
ST PAUL MN 55102

0496 0 062
SHOLOM HOME
1554 MIDWAY PKWY
ST PAUL MN 55108

0782 3 062
ST MARYS HOME
1925 NORFOLK AVE
ST PAUL MN 55116

0529 8 062
SUMMIT MANOR HEALTH CARE CTR
80 WESTERN AVE NO
ST PAUL MN 55102

0530 6 062
THE HOMESTEAD HOME
398 DUKE STREET
ST PAUL MN 55102

0525 6 062
UNITED HOSPITAL & NH
333 NORTH SMITH
ST PAUL MN 55102

0514 0 062
WILDER RESIDENCE EAST
696 DELLWOOD PLACE
ST PAUL MN 55106

1058 7 062
NORTHEAST RESIDENCE I
104 BALD EAGLE AVE
WHITE BEAR LAKE MN 55110

1209 6 062
NORTHEAST RESIDENCE II
8 OAK KNOLL
WHITE BEAR LAKE MN 55110

0923 3 062
WHITE BEAR LAKE CARE CENTER
1519 FLORENCE STREET
WHITE BEAR LAKE MN 55110

0540 5 063
HILLCREST NURSING HOME
311 BROADWAY
RED LAKE FALLS MN 56750

0906 8 063
ST JOHNS HOSPITAL
306 8TH STREET SW
RED LAKE FALLS MN 56750

0543 9 064
PARKVIEW HOME
401 COUNTY STATE AID HWY 9
RELVIEW MN 56314

0731 0 064
VALLEY VIEW MANOR
BOX 126
LAMBERTON MN 56152

0542 1 064
GIL MOR MANOR

MORGAN MN 56266

0545 4 064
REDWOOD FALLS MUN HOSP
100 FALLWOOD ROAD
REDWOOD FALLS MN 56283

0547 0 064
REM-REDWOOD FALLS
1011 EAST ELM ST
REDWOOD FALLS MN 56283

0827 6 064
SUNWOOD CARE CENTER
200 SOUTH DEKALB
REDWOOD FALLS MN 56283

0749 2 064
WOOD-DALE HOME INC
600 SUNRISE BLVD
REDWOOD FALLS MN 56283

0824 3 064
REVERE HOME
202 SOUTH MAIN
REVERE MN 56166

0912 6 064
WABASSO HEALTHCARE CENTER
MAPLE & MAY
WABASSO MN 56293

0905 0 065
BIRD ISLAND MANOR HCC
421 SOUTH 11TH STREET
BIRD ISLAND MN 55310

1312 8 065
RENVILLE COUNTY COMM RES
831 GROVE AVE
BIRD ISLAND MN 55310

0550 4 065
BUFFALO LAKE NURSING HOME
BOX 386
BUFFALO LAKE MN 55314

0847 4 065
FAIRFAX NURSING HOME
TENTH AVE SE
FAIRFAX MN 55332

0786 4 065
FRANKLIN HEALTHCARE CENTER
R RT 1
FRANKLIN MN 55333

0772 4 065
OLIVIA HEALTHCARE CENTER
1003 WEST MAPLE
OLIVIA MN 56277

0558 7 065
RENVILLE COUNTY HOSPITAL
300 SO 7TH ST
OLIVIA MN 56277

0557 9 065
REN-VILLA
205 SE ELM STREET
RENVILLE MN 56284

1192 4 066
CONSTANCE BULTMAN WILSON CTR
PO BOX 917
FARIBAULT MN 55021

0909 2 066
FARIBAULT MANOR
1738 HULETT AVE
FARIBAULT MN 55021

0562 9 066
FARIBAULT STATE HOSP

FARIBAULT MN 55021

0562 9 066
FARIBAULT STATE HOSPITAL

FARIBAULT MN 55021

0562 9 066
FARIBAULT STATE SLF UNIT

FARIBAULT MN 55021

1089 2 066
KROEGERS HOUSE
122 NW 7TH ST
FARIBAULT MN 55021

0568 6 066
PLEASANT MANOR INC
27 BRAND AVENUE
FARIBAULT MN 55021

0566 8 066
LEGION PARK HALL
1150 SW THIRD ST
FARIBAULT MN 55021

1060 3 066
RESIDENT HOMES INC - HAVEN
538 NW 2ND ST
FARIBAULT MN 55021

1059 5 066
RESIDENT HOMES INC-HARMONY
611 NW 5TH ST
FARIBAULT MN 55021

0569 4 066
RICE COUNTY DIST 1 HOSPITAL
631 1ST ST SE
FARIBAULT MN 55021

0804 5 066
SEVENTH STREET HOUSE
216 7TH STREET NW
FARIBAULT MN 55021

0571 0 066
ST LUCAS CONVALESCENT CTR
503 E DIVISION ST
FARIBAULT MN 55021

1184 1 066
214 PARK AVENUE HOME
214 PARK AVENUE
FARIBAULT MN 55021

0564 5 066
MINNESOTA ODD FELLOWS HOME
815 FOREST AVE
NORTHFIELD MN 55057

0566 0 066
NORTHFIELD CITY HOSPITAL
800 WEST 2ND ST
NORTHFIELD MN 55057

0566 0 066
NORTHFIELD CITY HOSPITAL
800 WEST 2ND ST
NORTHFIELD MN 55057

0567 8 066
NORTHFIELD RETIREMENT CENTER
900 CANNON VALLEY DR
NORTHFIELD MN 55057

0567 8 066
NORTHFIELD RETIREMENT CENTER
900 CANNON VALLEY DR
NORTHFIELD MN 55057

1163 5 066
THE LAURA BAKER SCHOOL
211 OAK STREET
NORTHFIELD MN 55057

0576 9 067
TUFF MEMORIAL HOME

HILLS MN 56138

0574 4 067
COMMUNITY HOSPITAL
305 E LUVERNE
LUVERNE MN 56156

1345 8 067
LUVERNE RESIDENTIAL FACILITY
107 SO BLUE MOUND AVE
LUVERNE MN 56156

0575 1 067
MARY J BROWN GOOD SAM CTR
110 SO WALNUT AVE
LUVERNE MN 56156

0578 5 068
GREENBUSH COMMUNITY HOSPITAL
GREENBUSH MN 56726

0579 3 068
ROSEAU AREA HOSPITAL
715 THIRD AVE SE
ROSEAU MN 56751

0604 9 069
WHITE COMMUNITY HOSPITAL
320 HWY 110 EAST
AURORA MN 55705

0595 9 069
MESABI HOME
JONES AVENUE PO BOX 703
BUHL MN 55713

1129 6 069
RANGE CENTER-OAKWOOD HOME
28 NE 11TH ST
CHISHOLM MN 55719

0861 5 069
BENEDICTINE HEALTH CENTER
935 KENWOOD AVENUE
DULUTH MN 55811

[redacted] 9 069
[redacted]F HOUSE
1707 CLIFF AVENUE
DULUTH MN 55803

1218 7 069
DULUTH REGIONAL CARE CTR 4
2502 W 2ND STREET
DULUTH MN 55807

0556 7 069
MILLER DWAN HOSP + MED CENTE
502 E 2ND ST
DULUTH MN 55805

1146 0 069
NEKTON ON SPRINGVALE
2214 SPRINGVALE RD
DULUTH MN 55811

0575 1 067
MARY J BROWN GOOD SAM CTR
110 SO WALNUT AVE
LUVERNE MN 56156

0926 6 068
EVENTIDE HOME
307 THIRD AVE NW
ROSEAU MN 56751

0797 1 068
WARROAD CARE CENTER
LAKE STREET
WARROAD MN 56763

0604 9 069
WHITE COMMUNITY HOSPITAL
320 HWY 110 EAST
AURORA MN 55705

0857 3 069
BUCHANAN NURSING HOME
30 FIRST ST NW
CHISHOLM MN 55719

0586 8 069
COOK COMMUNITY HOSP
THIRD ST + CEDAR AVE
COOK MN 55723

1066 0 069
CAROMIN HOUSE - TIOGA
6009 TIOGA ST
DULUTH MN 55804

1065 2 069
DULUTH REGIONAL CARE CTR 1
2232 EAST FIRST ST
DULUTH MN 55812

0593 4 069
LAKE HAVEN MANOR NSG CTR
7700 GRAND AVE
DULUTH MN 55807

1332 6 069
MILLER DWAN WEST
40TH AVE WEST & 9TH ST
DULUTH MN 55807

1109 8 069
NEKTON ON WALLACE
1702 WALLACE AVE
DULUTH MN 55803

0578 5 068
GREENBUSH COMMUNITY HOSPITAL
GREENBUSH MN 56726

1326 8 068
RFM ROSEAU
208 2ND AVE NE
ROSEAU MN 56751

1111 4 069
SALMI BOARDING HOME
RT 1 BOX 235
AURORA MN 55705

1328 4 069
HILLTOP MANOR
BOX 338
BROOKSTON MN 55711

0904 3 069
HERITAGE MANOR HEALTH CARE C
321 NE SIXTH STREET
CHISHOLM MN 55719

0586 8 069
COOK COMMUNITY HOSP
THIRD ST & CEDAR AVE
COOK MN 55723

1183 3 069
CAROMIN HOUSE-DODGE
4620 DODGE ST
DULUTH MN 55804

1064 5 069
DULUTH REGIONAL CARE CTR 2
323 90TH AVE WEST
DULUTH MN 55808

0594 2 069
LAKESHORE LUTHERAN HOME
4002 LONDON RD
DULUTH MN 55804

1117 1 069
NEKTON ON GREYSOLON
3518 GREYSOLON RD
DULUTH MN 55803

0589 2 069
PARK POINT MANOR
1601 ST LOUIS AVENUE
DULUTH MN 55802

0578 5 068
GREENBUSH COMMUNITY HOSPITAL
GREENBUSH MN 56726

0579 3 068
ROSEAU AREA HOSPITAL
715 THIRD AVE SE
ROSEAU MN 56751

0604 9 069
WHITE COMMUNITY HOSPITAL
320 HWY 110 EAST
AURORA MN 55705

1069 4 069
MAKI HOME INC
STAR ROUTE BOX 636
BROOKSTON MN 55711

1062 9 069
RANGE CENTER INC
1001 8TH AVE NW
CHISHOLM MN 55719

0581 9 069
AFTENRO HOME
1425 NORTH 19TH AVENUE EAST
DULUTH MN 55811

1063 7 069
CHAMPION CHILDRENS HOME
1889 LESTER RIVER RD
DULUTH MN 55804

1068 6 069
DULUTH REGIONAL CARE CTR 3
631 W SKYLINE BLVD
DULUTH MN 55806

0594 2 069
LAKESHORE LUTHERAN HOME
4002 LONDON RD
DULUTH MN 55804

1133 8 069
NEKTON ON LONDON ROAD
4515 LONDON RD
DULUTH MN 55804

1220 3 069
RESIDENTIAL SERV OF NE MN
2048 E 8TH STREET
DULUTH MN 55812

0598 3 069
ST LOUIS CO MEDICAL CARE FAC
2501 RICE LAKE ROAD
DULUTH MN 55811

1358 1 069
THUNDERBIRD HOUSE
229 NO FOURTH AVE W
DULUTH MN 55806

0587 6 069
ELY BLOOMENSON COMM HOSP
328 W CONAN ST
ELY MN 55731

1224 5 069
RANGE CENTER-BIRCHWOOD HOME
[redacted]6 W FIRST STREET
[redacted]LETH MN 55734

1315 1 069
RANGE CENTER-MAPLEVIEW
506 WEST 47TH ST
HIBBING MN 55746

1171 8 069
GETHSEMANE GROUP HOME
507 9TH AVE SOUTH
VIRGINIA MN 55792

0605 6 070
THE LUTHERAN HOME
611 WEST MAIN ST
BELLE PLAINE MN 56011

[redacted]28 6 070
DELPHI
1411 EAST SHAKOPEE AVE
SHAKOPEE MN 55379

0612 2 071
HIGH POINT LODGE N H INC
ROUTE 1 BOX 346
CLEAR LAKE MN 55319

0774 0 071
ST BENEDICTS CENTER
1810 MINNESOTA BLVD SE
ST CLOUD MN 56301

1313 6 072
HIGH ISLAND CREEK RES
CHESTNUT DRIVE
ARLINGTON MN 55307

0599 1 069
ST LUKES HOSPITAL
915 E FIRST STREET
DULUTH MN 55805

0602 3 069
VIEWCREST NURSING HOME
3111 CHURCH ST
DULUTH MN 55811

0583 5 069
ARROWHEAD NURSING HOME
601 GRANT AVE
EVELETH MN 55734

0859 9 069
CENTRAL MESABI MED CENTER
750 EAST 34TH ST
HIBBING MN 55746

0597 5 069
NOPEMING NURSING HOME

NOPEMING MN 55770

0603 1 069
VIRGINIA REG MED CTR & NH
901 9TH ST NORTH
VIRGINIA MN 55792

1244 3 070
FAMILY TREATMENT CENTER-AB/N
ROUTE 2
JORDAN MN 55352

0609 8 070
SAINT FRANCIS HOSPITAL INC
325 WEST 5TH AVE
SHAKOPEE MN 55379

0611 4 071
ELK RIVER NURSING HOME
400 EVANS AVE
ELK RIVER MN 55330

0614 8 071
ST CLOUD MANOR
1717 MICHIGAN AVE SE
ST CLOUD MN 56301

0619 7 072
GAYLORD COMM HOSPITAL & NH
640 3RD STREET
GAYLORD MN 55334

0600 7 069
ST MARYS HOSPITAL
407 EAST THIRD ST
DULUTH MN 55805

1347 4 069
WREN HOUSE
1731 WEST 1ST ST
DULUTH MN 55806

0588 4 069
EVELETH FITZGERALD COMM HOSP
MCKINLEY AVE
EVELETH MN 55734

0590 0 069
GOLDEN CREST NURSING HOME
2413 FIRST AVENUE
HIBBING MN 55746

1072 8 069
HEARTHSIDE HOMES
PIKE BAY DRIVE
TOWER MN 55790

0603 1 069
VIRGINIA REG MED CTR & NH
901 9TH ST NORTH
VIRGINIA MN 55792

0610 6 070
VALLEYVIEW NURSING HOME
4061 W 173RD STREET
JORDAN MN 55352

0820 1 070
SHAKOPEE FRIENDSHIP MANOR
1340 3RD AVE WEST
SHAKOPEE MN 55379

0611 4 071
ELK RIVER NURSING HOME
400 EVANS AVE
ELK RIVER MN 55330

0617 1 072
ARLINGTON GOOD SAM CENTER
411 SEVENTH AVE NW BOX 645
ARLINGTON MN 55307

0619 7 072
GAYLORD COMMUNITY HOSP & NH
640 3RD STREET
GAYLORD MN 55334

0865 6 069
SURF & SAND NURSING HOME
3910 MINNESOTA AVE
DULUTH MN 55802

0587 6 069
ELY BLOOMENSON COMM HOSP
328 W CONAN ST
ELY MN 55731

0588 4 069
EVELETH FITZGERALD COMM HOSP
MCKINLEY AVE
EVELETH MN 55734

0858 1 069
LEISURE HILLS HCC
1500 THIRD AVE EAST
HIBBING MN 55746

0582 7 069
ARROWHEAD NURSING HOME
1201 8 1/2 STREET SOUTH
VIRGINIA MN 55792

0605 6 070
THE LUTHERAN HOME
611 WEST MAIN ST
BELLE PLAINE MN 56011

0607 2 070
QUEEN OF PEACE HOSPITAL
301 2ND ST NE
NEW PRAGUE MN 56071

1411 8 071
RESIDENTIAL ALTERNATIVES VII
150 POWELL CIRCLE WEST
BIG LAKE MN 55309

1227 8 071
THE SHIRE-DUNGARVIN IV
9607 201ST AVE NE
ELK RIVER MN 55330

0618 9 072
ARLINGTON MUNICIPAL HOSPITAL
601 W CHANDLER
ARLINGTON MN 55307

0843 3 072
WINTHROP CARE CENTER
506 HIGH STREET
WINTHROP MN 55396

1358 1 069
THUNDERBIRD HOUSE
229 NO FOURTH AVE W
DULUTH MN 55806

0602 3 069
VIEWCREST NURSING HOME
3111 CHURCH ST
DULUTH MN 55811

1347 4 069
WREN HOUSE
1731 WEST 1ST ST
DULUTH MN 55806

0587 6 069
ELY BLOOMENSON COMM HOSP
328 W CONAN ST
ELY MN 55731

0587 6 069
ELY BLOOMENSON COMM HOSP
328 W CONAN ST
ELY MN 55731

0583 5 069
ARROWHEAD NURSING HOME
601 GRANT AVE
EVELETH MN 55734

0588 4 069
EVELETH FITZGERALD COMM HOSP
MCKINLEY AVE
EVELETH MN 55734

0588 4 069
EVELETH FITZGERALD COMM HOSP
MCKINLEY AVE
EVELETH MN 55734

1224 5 069
RANGE CENTER-BIRCHWOOD HOME
1016 W FIRST STREET
EVELETH MN 55734

0859 9 069
CENTRAL MESABI MED CENTER
750 EAST 34TH ST
HIBBING MN 55746

0590 0 069
GOLDEN CREST NURSING HOME
2413 FIRST AVENUE
HIBBING MN 55746

0858 1 069
LEISURE HILLS HCC
1500 THIRD AVE EAST
HIBBING MN 55746

1315 1 069
RANGE CENTER-MAPLEVIEW
506 WEST 47TH ST
HIBBING MN 55746

0597 5 069
NOPEMING NURSING HOME

NOPEMING MN 55770

1072 8 069
HEARTHSIDE HOMES
PIKE BAY DRIVE
TOWER MN 55790

0582 7 069
ARROWHEAD NURSING HOME
1201 8 1/2 STREET SOUTH
VIRGINIA MN 55792

1171 8 069
GETHSEMANE GROUP HOME
507 9TH AVE SOUTH
VIRGINIA MN 55792

0603 1 069
VIRGINIA REG MED CTR & NH
901 9TH ST NORTH
VIRGINIA MN 55792

0603 1 069
VIRGINIA REG MED CTR & NH
901 9TH ST NORTH
VIRGINIA MN 55792

0605 6 070
THE LUTHERAN HOME
611 WEST MAIN ST
BELLE PLAINE MN 56011

0605 6 070
THE LUTHERAN HOME
611 WEST MAIN ST
BELLE PLAINE MN 56011

1244 3 070
FAMILY TREATMENT CENTER-AR/N
ROUTE 2
JORDAN MN 55352

0610 6 070
VALLEYVIEW NURSING HOME
4061 W 173RD STREET
JORDAN MN 55352

0607 2 070
QUEEN OF PEACE HOSPITAL
301 2ND ST NE
NEW PRAGUE MN 56071

1228 6 070
DELPHI
1411 EAST SHAKOPEE AVE
SHAKOPEE MN 55379

0609 8 070
SAINT FRANCIS HOSPITAL INC
325 WEST 5TH AVE
SHAKOPEE MN 55379

0820 1 070
SHAKOPEE FRIENDSHIP MANOR
1340 3RD AVE WEST
SHAKOPEE MN 55379

1411 8 071
RESIDENTIAL ALTERNATIVES VII
150 POWELL CIRCLE WEST
BIG LAKE MN 55309

0612 2 071
HIGH POINT LODGE N H INC
ROUTE 1 BOX 346
CLEAR LAKE MN 55319

0611 4 071
ELK RIVER NURSING HOME
400 EVANS AVE
ELK RIVER MN 55330

0611 4 071
ELK RIVER NURSING HOME
400 EVANS AVE
ELK RIVER MN 55330

1227 8 071
THE SHIRE-DUNGARVIN IV
9607 201ST AVE NE
ELK RIVER MN 55330

0774 0 071
ST BENEDICTS CENTER
1810 MINNESOTA BLVD SE
ST CLOUD MN 56301

0614 8 071
ST CLOUD MANOR
1717 MICHIGAN AVE SE
ST CLOUD MN 56301

0617 1 072
ARLINGTON GOOD SAM CENTER
411 SEVENTH AVE NW BOX 645
ARLINGTON MN 55307

0618 9 072
ARLINGTON MUNICIPAL HOSPITAL
601 W CHANDLER
ARLINGTON MN 55307

1313 6 072
HIGH ISLAND CREEK RES
CHESTNUT DRIVE
ARLINGTON MN 55307

0619 7 072
GAYLORD COMM HOSPITAL & NH
640 3RD STREET
GAYLORD MN 55334

0619 7 072
GAYLORD COMMUNITY HOSP & NH
640 3RD STREET
GAYLORD MN 55334

0843 3 072
WINTHROP CARE CENTER
506 HIGH STREET
WINTHROP MN 55396

0622 1 073
ALBANY COMM HOSPITAL
6TH ST NO & 3RD AVE E
ALBANY MN 56307

0634 6 073
MOTHER OF MERCY NURSING HOME
BOX R
ALBANY MN 56307

0626 2 073
BELGRADE NURSING HOME
BOX 340
BELGRADE MN 56312

0624 7 073
ASSUMPTION HOME
715 NO FIRST STREET
COLD SPRING MN 56320

355 7 073 OTHER TERESA HOME 01 10TH AVE NO OLD SPRING MN 56320	1336 7 073 MADDEN KIMBALL HOME KIMBALL MN 55353	0633 8 073 MELROSE HOSP & PINE VILLA 11 NORTH 5TH AVE W MELROSE MN 56352	0633 8 073 MELROSE HOSPITAL 11 NORTH 5TH AVE W MELROSE MN 56352
636 1 073 AYNESVILLE COMM HOSPITAL 00 1ST ST W AYNESVILLE MN 56362	0636 1 073 PAYNESVILLE COMMUNITY HOSP 200 1ST ST W PAYNESVILLE MN 56362	0631 2 073 PAYNESVILLE GOOD SAM HOME 311 WASHBURN AVE PAYNESVILLE MN 56362	1398 7 073 DOROTHE LANE HOME 205 SIXTH STREET SAUK CENTRE MN 56378
399 5 073 AKEVIEW CHILDRENS HOME INCOLN & WEST SECOND AUK CENTRE MN 56378	1381 3 073 PETTIT CHILDRENS HOME 812 SO MAIN STREET SAUK CENTRE MN 56378	0640 3 073 ST MICHAELS HOSPITAL & NH 425 NORTH ELM ST SAUK CENTRE MN 56378	0640 3 073 ST MICHAELS HOSPITAL & NH 425 NORTH ELM ST SAUK CENTRE MN 56378
628 8 073 ANS BOARDING CARE HOME 10[redacted]HIRD ST NORTH T [redacted]UD MN 56301	1178 3 073 FOCUS XII HALFWAY HOUSE 3220 8TH ST N ST CLOUD MN 56301	1353 2 073 OPPORTUNITY MANOR 318 14TH AVE NO ST CLOUD MN 56301	1354 0 073 REM ST CLOUD 1506 33RD AVE NO ST CLOUD MN 56301
639 5 073 ST CLOUD HOSPITAL 406 SIXTH AVE NORTH ST CLOUD MN 56301	1271 6 073 ST ELIZABETH HOME 306 15TH AVE NO ST CLOUD MN 56301	9005 0 073 VETERANS ADM HOSPITAL ST CLOUD MN 56301	9005 0 073 VETERANS ADM HOSPITAL ST CLOUD MN 56301
225 2 073 EM-WAITE PARK 6 9TH AVE NORTH AITE PARK MN 56387	1397 9 073 ST FRANCIS HOME 25 2ND STREET NO WAITE PARK MN 56387	0643 7 073 WAITE PARK NURSING HOME INC 142 NW FIRST ST WAITE PARK MN 56387	0650 2 074 PRAIRIE MANOR 220 3RD ST NW BLOOMING PRAIRIE MN 55917
644 5 074 EDARVIEW NURSING HOME 409 SO CEDAR ST OWATONNA MN 55060	0647 8 074 OAK HILL REST HOME 343 E PEARL ST OWATONNA MN 55060	0648 6 074 OWATONNA CITY HOSPITAL 828 SO CEDAR ST OWATONNA MN 55060	0649 4 074 OWATONNA HEALTH CARE CENTER 201 SOUTH WEST 18TH ST OWATONNA MN 55060
120[redacted] 074 EST HILLS LODGE 545 FLORENCE AVE OWATONNA MN 55060	0645 2 074 WESTSIDE BOARDING CARE HOME ROUTE 1 OWATONNA MN 55060	1285 6 074 WOODVALE II 127 W PEARL STREET OWATONNA MN 55060	1078 5 075 HOFFMAN GROUP HOME 210 WEST SEVENTH MORRIS MN 56267
0653 6 075 STEVENS CO MEMORIAL HOSP 400 EAST FIRST ST MORRIS MN 56267	0654 4 075 VILLA OF ST FRANCIS NSG HOME 1001 SCOTT AVE MORRIS MN 56267	0655 1 076 APPLETON MUNICIPAL HOSPITAL 300 SOUTH BEHL STREET APPLETON MN 56208	0655 1 076 APPLETON MUNICIPAL HOSPITAL 300 SOUTH BEHL STREET APPLETON MN 56208
0870 6 076 MEADOW LANE HEALTH CARE CTR WEST HIGHWAY 9 BENSON MN 56215	0870 6 076 MEADOW LANE HEALTH CARE CTR WEST HIGHWAY 9 BENSON MN 56215	1349 0 076 SWIFT COUNTY HOME 1650 STONE AVE BENSON MN 56215	0659 3 076 SWIFT COUNTY-BENSON HOSPITAL 1815 WISCONSIN AVE BENSON MN 56215
0657 9 076 LINDBERG REST HOME KERKHOVEN MN 56252	0665 0 077 MEMORIAL COMMUNITY HOSPITAL BOX 97 BERTHA MN 56437	0665 0 077 MEMORIAL COMMUNITY HOSPITAL BOX 97 BERTHA MN 56437	0889 6 077 ST JOHNS HOSPITAL 540 8TH STREET WEST BROWERVILLE MN 56438

1333 4 077
TODD COUNTY GROUP HOME
820 ST JOHNS AVE
BROWERVILLE MN 56438

0668 4 078
BROWNS VALLEY COMM NSG HOME
BOX 340 JEFFERSON ST
BROWNS VALLEY MN 56219

0673 4 079
LAKE CITY HOSPITAL
904 SOUTH LAKESHORE DR
LAKE CITY MN 55041

0672 6 079
HILLCREST NURSING & RET HOME
[redacted] 2ND AVE NW
[redacted]INVIEW MN 55964

0676 7 079
WABASHA NURSING HOME
626 SHIELDS AVENUE
WABASHA MN 55981

0667 6 080
UNITED DISTRICT HOSP & HOME
401 PRAIRIE AVE NO
STAPLES MN 56479

0680 9 080
TRI-COUNTY HOSPITAL
418 JEFFERSON ST NO
WADENA MN 56482

[redacted]5 081
LAKESHORE INN NURSING HOME
108 8TH STREET NW
WASECA MN 56093

1216 1 082
FORESTVIEW-HEMINGWAY
8045 HEMINGWAY AVE SO
COTTAGE GROVE MN 55016

0688 2 082
GREELEY HEALTHCARE CENTER
313 SO GREELEY ST
STILLWATER MN 55082

1131 2 082
NEKTON ON IMPERIAL COURT
8050 IMPERIAL COURT
STILLWATER MN 55082

0761 7 077
CENTRAL TODD CO CARE CENTER
HWY 71 NEAR OAK ST
CLARISSA MN 56440

0669 2 078
TRAVERSE CO NURSING HOME
303 7TH ST SO
WHEATON MN 56296

0674 2 079
LAKEVIEW HEALTH CARE CENTER
815 NO HIGH ST
LAKE CITY MN 55041

0675 9 079
ST ELIZABETH HOSPITAL
1200 GRANT BLVD WEST
WABASHA MN 55981

1136 1 079
717 RUSTIC LANE
717 RUSTIC LANE
WABASHA MN 55981

1309 4 080
PEMBINA TRAIL
RT 1 BOX 127
WADENA MN 56482

0681 7 081
JANESVILLE NURSING HOME
102 EAST NORTH ST
JANESVILLE MN 56048

1279 9 081
LARRY JAMES HOME
404 2ND ST NE
WASECA MN 56093

0853 2 082
BIRCHWOOD HEALTH CARE CENTER
604 NE 1ST STREET
FOREST LAKE MN 55025

1288 0 082
JAMESTOWN
11550 JASMINE TRAIL NO
STILLWATER MN 55082

0903 5 082
STILLWATER MAPLE MANOR CARE
1119 NO OWENS STREET
STILLWATER MN 55082

0778 1 077
LONG PRAIRIE MEM HOSP + C+NC
20 9TH STREET SE
LONG PRAIRIE MN 56347

0669 2 078
TRAVERSE CO NURSING HOME
303 7TH ST SO
WHEATON MN 56296

0674 2 079
LAKEVIEW HEALTH CARE CENTER
815 NO HIGH ST
LAKE CITY MN 55041

0675 9 079
ST ELIZABETHS HOSPITAL
1200 5TH GRANT BLVD WEST
WABASHA MN 55981

0678 3 080
GREEN PINE ACRES NSG HOME
PO BOX 130
MENAHGA MN 56464

0679 1 080
SHADY LANE NURSING HOME
R RT 2 HWY 110 EAST
WADENA MN 56482

0748 4 081
NEW RICHLAND CARE CTR
312 NE 1ST STREET
NEW RICHLAND MN 56072

0908 4 081
WASECA AREA MEMORIAL HOSP
100 5TH AVE NW
WASECA MN 56093

0687 4 082
MEMORIAL HOSP ASSOCIATION
246 11TH AVE SE
FOREST LAKE MN 55025

0689 0 082
LAKEVIEW MEMORIAL HOSPITAL
919 W ANDERSON ST
STILLWATER MN 55082

0881 3 082
STILLWATER RESIDENCE
220 WEST OLIVE STREET
STILLWATER MN 55082

0778 1 077
LONG PRAIRIE MEM HOSP + C+NC
20 9TH STREET SE
LONG PRAIRIE MN 56347

0670 0 078
WHEATON COMMUNITY HOSPITAL
5TH AVE NO AT 12TH ST
WHEATON MN 56296

1318 5 079
SEVEN ELEVEN NORTH HIGH
711 NORTH HIGH ST
LAKE CITY MN 55041

0675 9 079
ST ELIZABETHS HOSPITAL
1200 5TH GRANT BLVD WEST
WABASHA MN 55981

0667 6 080
UNITED DISTRICT HOSP & HOME
401 PRAIRIE AVE NO
STAPLES MN 56479

0680 9 080
TRI-COUNTY HOSPITAL
418 JEFFERSON ST NO
WADENA MN 56482

1385 4 081
ELM RESIDENCE
620 EAST ELM
WASECA MN 56093

0686 6 082
CROIXDALE RESIDENCE
334 NO 7TH AVE
BAYPORT MN 55003

1125 4 082
NEKTON ON STILLWATER LANE
10092 STILLWATER LANE
LAKE ELMO MN 55042

0809 4 082
LINDEN HEALTHCARE CENTER
105 WEST LINDEN ST
STILLWATER MN 55082

1268 2 082
JANE DICKMAN HOUSE
1665 WOODBURY DR
WOODBURY

0803 7 082
WOODBURY HEALTH CARE CENTER
7012 CARVER LAKE RD
WOODBURY MN 55119

0695 7 083
LUTHER MEMORIAL HOME
221 6TH ST SW
MADELIA MN 56062

0696 5 083
MADELIA COMMUNITY HOSPITAL
121 DREW AVE SE
MADELIA MN 56062

0697 3 083
PLEASANT VIEW GOOD SAM CENTE
1000 SOUTH 2ND ST
ST JAMES MN 56081

0698 1 083
WATONWAN MEMORIAL HOSPITAL
1207 6TH AVE SO
ST JAMES MN 56081

0700 5 084
SAINT FRANCIS HOSPITAL
415 OAK STREET
BRECKENRIDGE MN 56520

0818 5 084
ST FRANCIS HOME FOR THE AGED
501 OAK STREET
BRECKENRIDGE MN 56520

1319 3 084
WILKIN COUNTY GROUP HOME
732 FIFTH STREET SO
BRECKENRIDGE MN 56520

0914 2 085
OFLOUGHERY HOME
505 EAST MAIN STREET
LEWISTON MN 55952

0911 8 085
WHITEWATER MANOR HCC
525 BLUFF AVENUE
ST CHARLES MN 55972

0701 3 085
COMMUNITY MEMORIAL HOSPITAL
855 MANKATO AVE
WINONA MN 55987

0701 3 085
COMMUNITY MEMORIAL HOSPITAL
855 MANKATO AVE
WINONA MN 55987

1134 6 085
GROUP HOMES OF WINONA INC
377 MAIN ST
[redacted]ONA MN 55987

0706 2 085
SAINT ANNES HOSPICE
1347 W BROADWAY
WINONA MN 55987

0706 2 085
SAINT ANNES HOSPICE
1347 W BROADWAY
WINONA MN 55987

0705 4 085
SAUER MEMORIAL HOME
1635 SERVICE DRIVE
WINONA MN 55987

0708 8 085
STARZECKI BOARDING CARE HOME
123 EAST 8TH ST
WINONA MN 55987

0704 7 085
WATKINS UNITED METHODIST HOM
175 EAST WABASHA
WINONA MN 55987

0704 7 085
WATKINS UNITED METHODIST HOM
175 EAST WABASHA
WINONA MN 55987

1343 3 085
252 WEST WABASHA
252 WEST WABASHA
WINONA MN 55987

1261 7 086
BUFFALO GROUP HOME
914 3RD AVE NE
BUFFALO MN 55313

0860 7 086
BUFFALO MEMORIAL HOSPITAL
303 CATLIN STREET
BUFFALO MN 55313

0714 6 086
EBENEZER COVENANT HOME
310 LAKE BOULEVARD
BUFFALO MN 55313

1179 1 086
RESIDENTIAL ALTERNATIVES I
303 DOUGLAS DR
BUFFALO MN 55313

1352 4 086
RESIDENTIAL ALTERNATIVES V
1804 SAKENDA ROAD
BUFFALO MN 55313

0719 5 086
RETIREMENT CENTER OF WRIGHT
200 PARK LANE
BUFFALO MN 55313

0717 0 086
COKATO MANOR INC
WEST HIGHWAY 12
COKATO MN 55321

1295 5 086
WARNER CARE HOME 1
325 SWANSON AVE
COKATO MN 55321

[redacted]6 3 086
[redacted]NER CARE HOME 2
180 6TH STREET WEST
COKATO MN 55321

1297 1 086
WARNER CARE HOME 3
370 WEST 3RD STREET
COKATO MN 55321

0810 2 086
DELANO HEALTHCARE CENTER
433 COUNTY RD 30
DELANO MN 55328

1080 1 086
THE DELLS PLACE INC
235 SOUTH 2ND ST
DELANO MN 55328

0851 6 086
HOWARD LAKE CARE CENTER
BOX CC 413 13TH AVE
HOWARD LAKE MN 55349

0851 6 086
HOWARD LAKE CARE CENTER
BOX CC
HOWARD LAKE MN 55349

0718 7 086
MONTICELLO BIG LAKE COMM NH
EAST 4TH & WASHINGTON
MONTICELLO MN 55362

0717 9 086
MONTICELLO BIG LK COMM HOSP
1013 E BROADWAY
MONTICELLO MN 55362

0716 1 086
MADDEN HAVEN HOME
101 OAK STREET
SOUTH HAVEN MN 55382

0722 9 087
CANBY COMMUNITY HOSPITAL
112 ST OLAF AVE SO
CANBY MN 56220

0722 9 087
CANBY COMMUNITY HOSPITAL
112 ST OLAF AVE SO
CANBY MN 56220

1081 9 087
REM II INC A+B
1201 HAARFAGAR ST NO
CANBY MN 56220

0842 5 087
CLARKFIELD CARE CENTER
805 FIFTH AVE
CLARKFIELD MN 56223

0724 5 087
COMMUNITY MEMORIAL HOSPITAL
812 10TH AVENUE
CLARKFIELD MN 56223

0725 2 087
MUNICIPAL HOSP + GRANITE MAN
345 TENTH AVE
GRANITE FALLS MN 56241

1157 7 087
PROJECT TURNABOUT
660 18TH ST
GRANITE FALLS MN 56241

AITKIN COUNTY PHNS
209 2ND ST NW
AITKIN MN 56431

2018 0 003
MULTI-COUNTY NS
BOX 701 518 SUMMIT
DETROIT LAKES MN 56501

2071 9 007
LAB OF CLINICAL MEDICINE
310 BELLE AVE
MANKATO MN 56001

2067 7 010
SERA, INC
309 LAKE HAZELTINE DR
CHASKA MN 55318

2015 6 013
CHISAGO COUNTY NS
BOX 649
LINDSTROM MN 55045

2093 3 018
MINNESOTA MOBILE X-RAY
703 NORTH 5TH ST
BRAINERD MN 56401

2003 2 021
DOUGLAS-GRANT CO PHNS
111 17TH AVE E BOX 823
ALEXANDRIA MN 56308

2009 9 027
DEPT OF COMMUNITY SERVICE
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN 55431

2089 1 027
CURATIVE SERVICES COURAGE CT
3915 GOLDEN VALLEY RD
GOLDEN VALLEY MN 55422

2160 0 027
REHABILITATION SPECIALISTS
23 NINTH AVE SO
HOPKINS MN 55343

2177 4 027
COMCARE
825 NICOLLET MALL SUITE 301
MINNEAPOLIS MN 55402

325 MAIN STREET
ANOKA MN 55303

2007 3 004
BELTRAMI COUNTY PHNS
615 BELTRAMI AVE BOX 422
BEMIDJI MN 56601

2114 7 007
MANKATO REHAB CTR INC
15 MAP DRIVE
MANKATO MN 56001

2060 2 010
CARVER COUNTY COMM HS
609 WEST 1ST ST
WACONIA MN 55318

2039 6 014
CLAY COUNTY PHNS
914 8TH AVE NO
MOORHEAD MN 56560

2139 4 018
SAINT JOSEPHS HOSP HHA
523 NO 3RD ST
BRAINERD MN 56401

2047 9 023
FILLMORE COUNTY NS
BOX 84 COURTHOUSE
PRESTON MN 55965

2175 8 027
MEDICAL HOME CARE PROGRAM
6550 YORK AVE SO
EDINA MN 55435

2089 1 027
CURATIVE SERVICES COURAGE CT
3915 GOLDEN VALLEY RD
GOLDEN VALLEY MN 55422

2166 7 027
BODINS HOME CARING
2344 NICOLLET AVE SO
MINNEAPOLIS MN 55404

2086 7 027
CONSULTING RAD,LTD
453 MEDICAL ARTS BLDG
MINNEAPOLIS MN 55402

403 JACKSON STREET
ANOKA MN 55303

2024 8 005
BENTON COUNTY PHNS
24 WILSON AVE NE
ST CLOUD MN 56301

2041 2 008
BROWN COUNTY PHNS
114 N STATE STREET
NEW ULM MN 56073

2170 9 010
WACONIA HEALTHCARE CENTER OP
333 WEST 5TH STREET
WACONIA MN 55387

2006 5 015
CLEARWATER CO NSG SERVICE
OLD CITY HALL, BOX G
BAGLEY MN 56621

2057 8 019
DAKOTA COUNTY NS
744 19TH AVE N
SO ST PAUL MN 55075

2002 4 024
FREEBORN COUNTY PHNS
COURTHOUSE & SO BROADWAY
ALBERT LEA MN 56007

2069 3 027
PHYSICIANS MEDICAL LAB
340 SOUTHDALE MED BLDG
EDINA MN 55435

2070 1 027
HEALTH CENTRAL LIFE SCIENCE
4141 GOLDEN VALLEY RD
GOLDEN VALLEY MN 55422

2142 8 027
CHILDRENS HEALTH CENTER HHA
2525 CHICAGO AVE SO
MINNEAPOLIS MN 55404

2122 0 027
COORDINATED HEALTH CARE
1317 GLENWOOD AVE
MINNEAPOLIS MN 55401

4050 COON RAPIDS BLVD
COON RAPIDS MN 55433

2034 7 007
BLUE EARTH COUNTY PHNS
410 S 4TH ST
MANKATO MN 56001

2016 4 009
CARLTON COUNTY NS
2801 DEWEY AVE
CLOQUET MN 55720

2062 8 011
CASS COUNTY PHNS
SECOND & MICHIGAN
WALKER MN 56484

2010 7 018
CROW WING COUNTY PHNS
4TH & LAUREL
BRAINERD MN 56401

2028 9 020
DODGE COUNTY PHNS
17 1/2 4TH AVE NW
KASSON MN 55944

2048 7 025
GOODHUE-WABASHA CO PHNS
426 WEST AVE
RED WING MN 55066

2085 9 027
SUBURBAN RAD CONSULTANTS
471 SOUTHDALE MED BLDG
EDINA MN 55435

2163 4 027
MPLS CLINIC OF PSYCH & NEURO
4225 GOLDEN VALLEY RD
GOLDEN VALLEY MN 55422

2037 0 027
COMBINED NSGS OF MPLS
250 SO 4TH STREET
MINNEAPOLIS MN 55415

2127 9 027
EBENEZER HOME SERVICE PROG
2523 PORTLAND AVE SO
MINNEAPOLIS MN 55404

516 DELAWARE ST SE
MINNEAPOLIS MN 55455

2165 9 027
IN HOME HEALTH CARE SERVICE
4001 STINSON BLVD NE
MINNEAPOLIS MN 55421

2167 5 027
NURSING SERVICES PROFESSIONA
12 SOUTH 6TH STREET
MINNEAPOLIS MN 55402

2107 1 027
ORAL PATHOLOGY LAB
515 DELAWARE ST SE
MINNEAPOLIS MN 55455

2092 5 027
PORT-A-RAY MED SERVICES
204 W FRANKLIN AVE
MINNEAPOLIS MN 55404

2145 1 027
WAR MEMORIAL BLOOD BANK
2304 PARK AVE SO
MINNEAPOLIS MN 55404

2052 9 027
SUBURBAN PHNS
5101 PARKDALE DR USCO BLDG
ST LOUIS PARK MN 55416

2014 9 030
ISANTI COUNTY PHNS
221 2ND ST S W
CAMBRIDGE MN 55008

2064 4 034
KANDIYOHI CO COMM NS
905 W LITCHFIELD AVE
WILLMAR MN 56201

2059 4 038
LAKE COUNTY HHS
4TH STREET AT 11TH AVE
TWO HARBORS MN 55616

2035 4 042
LYON COUNTY PHNS
607 W MAIN STREET
MARSHALL MN 56258

2312 SO 6TH ST
MINNEAPOLIS MN 55404

2077 6 027
LUFKIN MEDICAL LAB
1103 2ND AVE SO
MINNEAPOLIS MN 55402

2167 5 027
NURSING SUPPORT PROFESSIONAL
12 SOUTH 6TH STREET
MINNEAPOLIS MN 55402

2144 4 027
PARATHYROID HORMONE ASSAY LA
406 HARVARD ST SE 274
MINNEAPOLIS MN 55455

2157 6 027
SPEECH LANGUAGE HEARING CLIN
825 SOUTH 8TH STREET
MINNEAPOLIS MN 55404

2049 5 027
HOME CARE DEPT-NO MEM MED CT
3220 LOWRY AVE N
ROBBINSDALE MN 55422

2174 1 027
VIRO MED LABORATORIES
2238 FLORIDA AVE SO
ST LOUIS PARK MN 55426

2014 9 030
ISANTI COUNTY PHNS
221 2ND ST S W
CAMBRIDGE MN 55008

2155 0 035
KITTSON COMM HEALTH SERVICE
410 SOUTH 5TH
HALLOCK MN 56728

2138 6 039
LAKE OF THE WOODS HHA
BOX H
BAUDETTE MN 56623

2025 5 043
MCLEOD COUNTY PHNS
830 FRANKLIN
GLENCOE MN 55536

U OF M DIEHL HALL
MINNEAPOLIS MN 55455

2073 5 027
METPATH LAB
2829 UNIVERSITY AVE
MINNEAPOLIS MN 55414

2168 3 027
NURSING SUPPORT SERVICES
5050 EXCELSIOR BLVD
MINNEAPOLIS MN 55416

2152 7 027
PATHOLOGY ASSOCIATES
2414 SO 7TH STREET
MINNEAPOLIS MN 55406

2176 6 027
SPEECH-LANGUAGE-HEARING CLIN
5104 CEDAR AVE SO
MINNEAPOLIS MN 55417

2132 9 027
MEADOWBROOK PHYSICAL THERAPY
6490 EXCELSIOR BLVD
ST LOUIS PARK MN 55426

2013 1 028
HOUSTON COUNTY PHNS
304 SOUTH MARSHALL
CALEDONIA MN 55921

2026 3 031
ITASCA COUNTY PHNS
130 SE FIRST AVE
GRAND RAPIDS MN 55744

2126 1 036
KOOCHICHING CO PHNS
COURTHOUSE 4TH ST AT 7TH AV
INTERNATIONAL FALLS MN 56649

2029 7 040
LESUEUR COUNTY PHNS
88 SOUTH PARK
LE CENTER MN 56057

2063 6 045
MARSHALL COUNTY PHNS
208 EAST COLVIN
WARREN MN 56762

2414 SOUTH 7TH ST
MINNEAPOLIS MN 55454

2153 5 027
MPLS AGE & OPPORTUNITY HHA
1801 NICOLLET AVE SO
MINNEAPOLIS MN 55403

2137 8 027
OB-GYN DIAGNOSTIC LAB
420 DELAWARE SE BX 131 MAYO
MINNEAPOLIS MN 55455

2161 8 027
PERSONNEL POOL OF MPLS
5353 WAYZATA BLVD SUITE 302
MINNEAPOLIS MN 55416

2038 8 027
U OF M HOSP HH SERVICE DEPT
420 DELAWARE SE BX 722 MAYO
MINNEAPOLIS MN 55455

2079 2 027
ST LOUIS PARK MED CTR LAB
5000 W 39TH ST
ST LOUIS PARK MN 55416

2044 6 029
HUBBARD COUNTY NS
COURTHOUSE
PARK RAPIDS MN 56470

2101 4 032
COTTONWOOD-JACKSON COMM NS
COURTHOUSE
JACKSON MN 56143

2173 3 037
MADISON HOSPITAL HHA
820 THIRD AVE
MADISON MN 56256

2027 1 041
LINCOLN COUNTY PHNS
COURTHOUSE
IVANHOE MN 56142

2021 4 046
FARIBAULT-MARTIN-WATONWAN PH
201 LAKE AVE
FAIRMONT MN 56031

MEEKER COUNTY PHNS
612 SIBLEY AVE
LITCHFIELD MN 55355

MILLE LACS CO COMM HEALTH
635 2ND STREET SE
MILACA MN 56353

MORRISON COUNTY PHNS
808 SE THIRD ST
LITTLE FALLS MN 56345

INDEPENDENT LAB LJ SMYTHE
607 10TH ST SW
AUSTIN MN 55912

2005 7 050
MOWER COUNTY PHNS
MAIN & 2ND AVE NE
AUSTIN MN 55912

2146 9 051
MURRAY CO NSG SERVICE
2042 JUNIPER AVE
SLAYTON MN 56172

2055 2 052
NICOLLET COUNTY PHNS
524 SOUTH FRONT STREET
ST PETER MN 56082

2066 9 053
NOBLES ROCK HEALTH SERVICE
315 10TH ST PO BOX 173
WORTHINGTON MN 56187

2050 3 055
OLMSTED COUNTY PHNS
415 4TH ST SE
ROCHESTER MN 55901

2023 0 056
OTTERTAIL CO PHS
MILL ST AT 4TH
FERGUS FALLS MN 56537

2124 6 057
INTER CO NURSING SERVICE
COURTHOUSE BOX 271
THIEF RIVER FALLS MN 56701

2045 3 058
PINE COUNTY PHNS
COURTHOUSE
PINE CITY MN 55063

2046 1 059
PIPESTONE CO HOSP HHC DEPT
911 5TH AVE SW
PIPESTONE MN 56164

2017 2 060
POLK COUNTY NURSING SERVICE
600 COLLEGE AVE
CROOKSTON MN 56716

2154 3 061
POPE COUNTY PHNS
COURTHOUSE
GLENWOOD MN 55334

2169 1 062
PRESBYTERIAN HOMES REHAB
3220 LAKE JOHANNA BLVD
ARDEN HILLS MN 55112

2133 7 062
PRESBYTERIAN HOMES-HHA
3220 LAKE JOHANNA BLVD
ARDEN HILLS MN 55112

2054 5 062
ST JOHNS HOSP HOME CARE
2696 HAZELWOOD STREET
MAPLEWOOD MN 55109

2151 9 062
NORTHSIDE PHYSICAL THERAPY
2233 HAMLINE AVE
ROSEVILLE MN 55113

2148 5 062
AMERICAN RED CROSS BLOOD SER
100 SOUTH ROBERT
ST PAUL MN 55107

2128 7 062
BETHESDA LUTH HOSPICE HHA
559 CAPITOL BLVD
ST PAUL MN 55103

2104 8 062
CAPITOL MEDICAL LABS
590 PARK STREET
ST PAUL MN 55103

2081 8 062
CENTRAL REG PATHOLOGY LAB
393 NO DUNLAP 48
ST PAUL MN 55104

2172 5 062
GALLERY PHYSICAL THERAPY
17 W EXCHANGE SUITE 309
ST PAUL MN 55101

2141 0 062
GREATER ST PAUL HOME SERVICE
1954 UNIVERSITY AVE
ST PAUL MN 55104

2136 0 062
NORTH CENTRAL LAB
393 NO DUNLAP SUITE 29
ST PAUL MN 55104

2171 7 062
NORTHWESTERN COLLEGE LAB
621 SOUTH CLEVELAND
ST PAUL MN 55116

2053 7 062
RAMSEY COUNTY PHNS
150 E KELLOGG BLVD
ST PAUL MN 55102

2133 7 062
REHAB ASSOCIATES
[redacted]4 JOHNSON PKWY
ST PAUL MN 55106

2083 4 062
ST PAUL PATHOLOGY PA
355 SHERMAN ST SUITE 403
ST PAUL MN 55102

2087 5 062
ST PAUL RADIOLOGY, PA
572 LOWRY MED ARTS BLDG
ST PAUL MN 55102

2090 9 062
ST PAUL REHAB CENTER
319 EAGLE STREET
ST PAUL MN 55102

2156 8 062
WILDER HHA
696 DELLWOOD PLACE
ST PAUL MN 55106

2096 6 064
REDWOOD CO PHNS
PO BOX 12 600 SO GOULD
REDWOOD FALLS MN 56283

2120 4 065
RENVILLE COUNTY PHNS
300 SOUTH 7TH STREET
OLIVIA MN 56277

2022 2 066
RICE COUNTY PHNS
218 NW 2ND ST
FARIBAULT MN 55021

2143 6 068
ROSEAU COUNTY NS
216 CENTER STREET
ROSEAU MN 56750

2068 5 069
MED ARTS SURGERY & CLIN LAB
408 MEDICAL ARTS BLDG
DULUTH MN 55802

2088 3 069
NAT G POLINSKI MEM REHAB CTR
530 EAST 2ND ST
DULUTH MN 55805

2019 8 069
ST LOUIS CO HEALTH DEPT
504 E 2ND ST
DULUTH MN 55802

2150 1 069
ST LUKES HHA
915 EAST FIRST STREET
DULUTH MN 55805

2091 7 069
IRON RANGE REHAB CENTER
10TH ST NO & 9TH AVE
VIRGINIA MN 55792

2131 1 070
SCOTT CO HUMAN SERVICES
699 CO RD 83
SHAKOPEE MN 55379

2020 6 071
SHERBURNE COUNTY HS
326 LOWELL
ELK RIVER MN 55330

COURTHOUSE BOX 166
GAYLORD MN 55334

510 25TH AVE N
ST CLOUD MN 56301

NORTH CENTRAL PATHOLOGY, PA
1411 ST GERMAINE 1
ST CLOUD MN 56301

STEARNS CO COMM HEALTH SERVI
BOX 153, 510 14 N 25TH AVE
ST CLOUD MN 56301

2043 8 074
STEELE COUNTY PHNS
P2P SO CEDAR ST
OWATONNA MN 55060

2040 4 075
STEVENS TRAVERSE PHNS
COURTHOUSE BOX 404
MORRIS MN 56267

2008 1 076
COUNTRYSIDE PHNS
301 14TH ST N
BENSON MN 56215

2033 9 077
TODD COUNTY PHNS
119 3RD ST SO
LONG PRAIRIE MN 56347

2061 0 080
WADENA COUNTY HEALTH DEPT
415 SO JEFFERSON ST
WADENA MN 56482

2084 2 082
IMMUNO NUCLEAR LAB
1951 NORTHWESTERN AVE
STILLWATER MN 55082

2058 6 082
WASHINGTON CO COMM H.S.
8155 HUDSON ROAD
WOODBURY MN 55125

2011 5 084
WILKIN COUNTY PHNS
5 ST SO AT OREGON
BRECKENRIDGE MN 56520

0706 2 085
SAINT ANNES HOSPICE
1347 W BROADWAY
WINONA MN 55987

2065 1 085
WINONA COUNTY PHNS
COURTHOUSE BOX 843
WINONA MN 55987

2012 3 086
WRIGHT CO COMM HEALTH NS
7TH NW 1ST ST
BUFFALO MN 55313

Ms. Jacqueline Heale, Administrator
Mala Strana Nursing Home
1001 Columbus Avenue North
New Prague, Minnesota 56071

Mr. Jeffrey T. Boston, Administrator
Frances Residence
1735 Arlington Avenue East
St. Paul, Minnesota 55106

Mr. Gene S. Bakke, Administrator
St. Clouid Hospital
Home Health AGency
1406 Sixth Avenue North
St. Cloud, Minnesota 56301

Wilder Senior Health Center
516 Humboldt
St. Paul, Minnesota 55107

Ms. Beverly Luxton, Administrator
Rainbow Residence
285 Cedardale Drive
Owatonna, Minnesota 55060

Ms. Pat Chisholm, Administrator
Rehab Services
4200 Old Shakopee Road, Suite 115
Bloomington, Minnesota 55437

Mr. Laurence J. Green, Administrator
Broadway Residential Treatment Center
73 West Broadway
Winona, Minnesota 55987

Ms. Cynthia LaCoeur, Administrator
Community Living Concepts
407 South McKnight
St. Paul, Minnesota 55119

Mr. John Nelson, Administrator
Annandale Care Center
RR 4 Box 57, Highway 24 East
Annandale, Minnesota 55302

Mr. Gerald Gustafson, Administrator
Regional Kidney Disease Program
555 Park Street, Suite 180
St. Paul, Minnesota 55103

Mr. Otto J. Olson, Administrator
Golden Oaks Nursing Home
1025 9th Avenue South
South St. Paul, Minnesota 55075

Ms. Ranae Hanson, Administrator
Janus
8041 12th Avenue South
Bloomington, Minnesota 55420

Ms. Roberta Krebs, Administrator
Speech, Language, Pathology and
Audiology Service
4001 Stinson Boulevard
Minneapolis, Minnesota 55421

Mr. David Briscoe, Administrator
University Health Care Center
22-27th Avenue Southeast
Minneapolis, Minnesota 55414

Ms. Kim Gillespie, Administrator
Kimberly Services
7505 Metro Drive, Suite 365
Edina, Minnesota 55435

Mr. Dennis Theede, Administrator
Houston County Group Home-LaCrescent
1700 Lancer Boulevard
LaCrescent, Minnesota 55947

Ms. Peggy Gould, Administrator
REM-Fairmont-B
111 Dorothy Street
Fairmont, Minnesota 56031

Reverend T.C. Peterson
6201 213 13th Lane N.E.
Wyomfng, Minnesota 55092

John Nelson
Box 419
Redwood Falls, MN 56283

Phillip Schumacher
Arrowhead Nursing Home
1201 8 1/2 Street South
Virginia, Minnesota 55792

L. Irving Peterson
2900 Crestview Drive
St. Anthony, Minnesota 55418

Michael Gibson
Shady Lane Nursing Home
Wadena, Minnesota 56482

Mary Martens
2095 Highland Parkway
St. Paul, Minnesota 55116

Joyce Traczyk
Ebenezer Society
2523 Portland Avenue
Minneapolis, MN 55404

Madeline S. Adcock, M.D.
6363 Gopher Boulevard North
St. Paul, Minnesota 55119

Emerson Storey
St. Mary's Home
1825 Norfolk Avenue
St. Paul, Minnesota 55116

Joan Knowlton
Hopkins Nursing Home
724 County Road 18
Hopkins, Minnesota 55343

Leila Texer
718 Navajo Lane
St. Paul, Minnesota 55120

Philip Williams
Walker Methodist
3701 Bryant Avenue South
Minneapolis, Minn. 55409

Advisory Council Members Rules and Notices — 9/13/82

Judy Lampert
2760 Woolsey Lane
Wayzata, Minnesota 55391

Frances Bly N+R
3737 Lyndale Avenue South
Minneapolis, Minn. 55409

sent 9/15/82

MAHCF
Suite 431
2850 Metro Drive
Bloomington, Minn. 55420

Minn. State Medical Assn. N+R
900 American Bank Building
101 East 5th Street
St. Paul, Minnesota 55101

Minn. Assn. of Homes for the Aging
2333 University Avenue S.E.
Minneapolis, Minn. 55414

Governor's Council on Aging
204 Metro Square Building
St. Paul, Minnesota 55101

John Broeker N and R
Broeker, Hartfeldt, Hedges and Grant
2850 Metro Drive-Suite 800
Bloomington, Minn. 55420

NHRAC N and R
3231 1st Avenue South
Minneapolis, MN 55408

Metropolitan Senior Federatio
1951 University Avenue
St. Paul, Minnesota 55104

N and R
Minnesota Nurses Assn.
Griggs-Midway Bldg. Rm. 377
1821 University Avenue
St. Paul, MN. 55104

Barbara George
House Majority Research
Room 286, State Office Bldg.
St. Paul, MN 55155

Ira Johnson
301 Oak Knoll
Mankato, Minnesota 56001

LCRAR N and R
State Capitol
St. Paul, Minnesota 55155

Betsy Schaeffer
Nutrition Therapy
V.A. Hospital
Minneapolis, Minn. 55417

Prof. Carolina Weiss
203 B. Cook Hall
University of Minnesota
Minneapolis, MN 55414

Margaret Stewart
5026 Aldrich Avenue South
Minneapolis, MN 55444

Mary Van Dan
Suite 270
400 Shelard Plaza South

[illegible]
Pharmaceutical Cons. Services
2675 University Avenue
St. Paul, Mn. 55114

Arno Lorshbough
2641 Dupont Avenue South
Minneapolis, MN 55408

[illegible]
Legal Aid Society of MPLS
222 Grain Exchange Bldg.
400 4th Street South
Minneapolis, MN 55415

Jeff Petterson
Public Affairs-Economics Lab.
Osborne Building
St. Paul, MN 55102

Mary Ann Miller
413 5th Street Northeast
Waseca, MN 56093

Janis Bauer
6144 134th Street West
Apple Valley, MN 55124

Barbara Larson
2114 Marshall Avenue
St. Paul, Minnesota 55104

Carolyn Wheeler
1901 Emerson Avenue South
#400
Minneapolis, MN 55403

Eleanor Berglund
14526 Orchard Road
Minnetonka, MN 55343

Stevie Fenlon
859 Linwood Avenue
St. Paul, Minnesota 55105

Debra Kempe, RRA
Route 1, Box 27
Tamarack, MN 55787

Ann Burkhardt
921 Rae Drive
Richfield, MN 55423

Ramsey County Lung Association
614 Portland
St. Paul, Minnesota 55102

Cathy Hughes
Dept. of Plann. & Gov. Relations
North Memorial Med. Center
3220 Lowry Avenue North
Minneapolis, MN 55422

Joan Carlsen
521 Sumter Avenue South
Minneapolis, MN 55426

Office Centerprises
2353 Rice St. North
Suite 125
St. Paul, Minnesota 55113

Jane Hoyt
130 Southeast Warwick
Minneapolis, MN 55414

Kathleen Cleary
3410 Fillmore St. N.E.
Minneapolis, MN 55418

Diane Lindgren
Mental Health Bureau
Department of Public Welfare
Centennial Office Building
St. Paul, Minnesota 55155

Beverly Thornberg
Box 153
Elbow Lake, MN 56531

Theon Conner
7720 Penn Avenue South #101
Richfield, MN 55423

Gail Imgrunn
1876 Groydon Avenue
Brainerd, MN 56401

Al Rysavy
2633 37th Avenue South
Minneapolis, MN 55406

Mary L. Connolly
565 Mount Curve Boulevard
St. Paul, Minnesota 56639

Ann Legue
1321 Sycamore
River Falls, Wisc. 55022

Bobbi Grothe
St. Mary's Junior College
2500 South 6th Street
Minneapolis, MN 55454

Jeanne Critchett
5335 2nd Avenue South
Minneapolis, MN 55419

Paul Schuster
P.O. Box 50
Mankato State University
Mankato, MN 56001

Iris Freeman N and R
Nursing Home Resident Advocates
3231 First Avenue South
Minneapolis, MN 55408

Buelah Culbertson
Apt. 324
6212 Louisiana Avenue North
Brooklyn Park, MN 55428

Harry Blasing
Route 3
Jaynesville, MN 56048

Linda Baumann
2806 West Oakland Avenue
Austin, MN 55912

Jean Cutler
Box 65
Effie, MN 56639

Esther Meyer
9326 Brier Lane
Bloomington, MN 55437

Jeannette Ritacco
624 South Saratoga
St. Paul, MN 55116

Solveig Tvedten
6323 Grand Avenue South
Richfield, MN 55423

Nancy Meyer
4524 Wilson Street
Minnetonka, MN 55343

Marjorie Ross
1145 Quentin Avenue South
Lakeland, MN 55041

Lois Murray
8152 Bloomington Avenue South
Bloomington, MN 55420

Vicki Scannell
3936 10th Avenue South
Minneapolis, MN 55407

Mary Waugh
622 East Chestnut
Redwood Falls, MN 56283

Joan Nielsen
3300 Carman Road
Excelsior, MN 55331

Lynnette Schrack
2637 Xenwood Avenue South
St. Louis Park, MN 55416

Mary Ellen Wertzler
3100 Quebec Avenue South
St. Louis Park, MN 55426

Colleen Nielson
20436 July Avenue North
Forest Lake, Minn. 55025

Ursual Sheehy
3 Hackberry Lane
St. Paul, MN 55110

Janet Wesselman
5036 Bryant Avenue South
Minneapolis, MN 55419

Charla Spitzack
R.R. 1, Box 101
Morristown, MN 55052

Karen Wilder
113 Ashley Road
Hopkins, MN 55343

Carol Opheim
5890 North Kirkwood Lane
Plymouth, MN 55442

Nancy Stepan
7811 44th Avenue North
Minneapolis, MN 55428

Ann Zietlow
3060 Oakdale Drive
North St. Paul, MN 55109

Robert Parry
4333 Washburn Avenue
Minneapolis, MN 55412

Margaret Stewart
5026 Aldrich Avenue South
Minneapolis, MN 55419

Jean M. Poland
2516 Silver Lane Northeast #204
Minneapolis, MN 55421

Yoshi Tani
810 East Belmont Lane
St. Paul, Minn. 55117

Carol Pomeroy
331 Kopp Drive
West St. Paul, MN 55118

Barbara Tapper
3935 Walden Lane
Wayzata, Minn. 55391

Ardelle Revland
Wanamingo, Minn. 55983

Carol Thera
498 Otis Avenue
St. Paul, MN 55104

'107 Ewing Avenue North
Minneapolis, MN 55429

Betty Wiljamaa
140 Bedford Street Southeast
Minneapolis, MN 55414

Tom Mayclin
2629 Louisiana Avenue South
Minneapolis, Minn. 55426

Jim Lang
Northwest Rehabilitation Serv.
5263 Central Avenue Northeast
Minneapolis, MN 55421

Lou Arndts
Box 388 - Mayo Building
Course Occupations Therapy
Minneapolis, MN 55455

Kevin Gerber
Ebenezer Society
2636 Park Avenue
Minneapolis, MN 55407

Al Stade
Social Service Department VA Hosp.
54th Street and 48th Avenue So.
Minneapolis, MN 55417

Kaye Nord
Volunteers of America Care
Facility
5550 York Avenue South
Minneapolis, MN 55435

William Wenmark
2438 27th Avenue South
Minneapolis, MN 55406

Bldg.
825 South 8th Street
Minneapolis, MN 55404

Rosemary Wilder,
Consultation Services
Metro. Medical Center
900 South Eight Street
Minneapolis, MN 55404

Virginia McCollister
6704 Brittany Road
Minneapolis, MN 55435

Roberta Westling
1905 East Lincoln Avenue #7
Alexandria, Minnesota 56308

Genevieve Robbins
Schlieman and Behl Street
Appleton, MN 56208

Esther Meyer
9326 Briar Lane
Bloomington, MN 55437

Gail Imgrund
1876 Graydon Avenue
Brainerd, MN 56401

Sylvia Hasse
13820 Community Drive
Burnsville, MN 55337

Lucille Myrold
415 South Minnesota
Crookston, MN 56716

6517 57th Avenue North
Crystal, MN 55422

Margaret Cleveland
4720 McCulloch Street
Duluth, Minnesota 55804

Audrey Flaherty
6025 London Road
Duluth, Minnesota 55804

Deanne Heinz
3777 Grey Dove Lane
Eagan, Minnesota 55122

Aileen Konhauser
6313 Holifax Avenue South
Edina, Minnesota 55424

Jean Cutler
Box 65
Effie, Minnesota 56639

Craig Ice
271 West Lake Street
Excelsior, MN 55331

Joan R. Carlsen
521 Sumter Avenue South
Golden Valley, MN 55422

Elizabeth Marshall
718 Fifth Avenue Southwest
Grand Rapids, Minnesota 557

Margaret Rose
16015 190th Street
Hastings, MN 55033

Barbara Seim
328 Van Buren Avenue North
Hopkins, Minnesota 55343

Mildred Templin
521 5th Street Southeast
Minneapolis, MN 55414

Mrs. Sable
1410 South Greely
Stillwater, Minn. 55082

Lois Fisch, R.D.
395 Woodlawn Avenue
St. Paul, Minn. 55105

Jeff Anlauf
15316 Lake Rose Lane
Minnetonka, Minnesota 55343

Debbie Melton
2353 Rice Street
Roseville, Minnesota 55113

Barbara E. Richards
505 North 11th Street
Virginia, MN 55792

CYAC
851 Faribault Road No. 305
Faribault, MN 55021

Minnesota Pharmaceutical Assn
2469 University Avenue
St. Paul, Minn. 55114

Mrs. Vernon Davidson
Waskish, Minn. 56685

Patty Cullen
Greenbrier Home
941 Birmingham
St. Paul, MN 55106

Ms. Cora Johnson, Adm. Asst.
MN. LPN Assn.
Rosedale Towers - Suite 210
1700 West Highway 36
St. Paul, MN 55113

Mrs. J.H. Dunnwald
Box 125
Waterville, MN 56096

Susan Granowski
Central MN Senior Federation
1900 Minnesota Boulevard
St. Cloud, MN 56301

Nancy O'Brien
1394 Jackson
St. Paul, Minn. 55117

Barbara Tapper, R.D.
3935 Walden Lane
Wayzata, Minnesota 55391

Rose Marie Peloquin
Nursing Home Consultant
Route 1
Rush City, MN 55069

Nancy McNeff
Ramsey County Mental Health U
Suite 920-150 East Kellogg
St. Paul, MN 55101

Dr. Craig Linnel
2164 Lakeview Avenue
White Bear Lake, MN 55110

Bob Bron
Chaska Chemical Company
12502 Xenwood Avenue South
Savage, MN 55378

Mrs. Dorothy Beihoffer
110 10th Street
Windom, Minnesota 56101

Mary Ellen Goriesky
827 Fuller Street South
Shakopee, MN 55379

Maureen Kunshier
Metro Health Board-Suite 300
Metro Square Building
St. Paul, MN 55101

Mrs. Ollie Laufenburger
1500 West 10th Street
Winona, MN 55987

Linda Sidwell
679 Maple Pond Court
Shoreview, MN 55112

Jean Forrey
514 Humboldt Avenue
St. Paul, Minnesota 55107

Guy Smith
Unicare Services, Inc.
105 West Michigan Street
Milwaukee, MN 53203

Judith Bieber
306 South Snelling #8
St. Paul, MN 55105

Laura Conlan
1733 Standord
St. Paul, Minnesota 55105

Jill Cramer
5129 Valley View Road
Edina, Minn. 55436

Mrs. Roger Sheehy
3 Hackberry Lane
St. Paul, MN 55110

Mrs. Dorothy Howie
207 Pioneer Building
St. Paul, Minn. 55101

Bruce Prause
Box CC
Howard Lake, MN 55349

Mary Javurek
3510 Elmwood Place
Minnetonka, MN 55343

Health Central Inc-
601 Brookdale Towers Bldg.
2810 57th Avenue North
Minneapolis, MN 55430

Joyce Johnson
4127 Red Oak Ridge
Minnetonka, MN 55343

Jane Watson
Community And Family Service
410 South Fifth Street
Mankato, Minn. 56001

Margaret Anderson
Oak Terrace Nursing Home
3608 Arbor Lane
Minnetonka, MN 55343

Abraham Kastenbaum
3016 Lynn Avenue South
Minneapolis, MN 55416

Dr. Jagan Kaul
Morris Hall
Mankato State University
Mankato, Minn. 56001

Irene Olson
415 Fourth Street
Moorhead, MN 56560

Bonnie Doering
St. Joseph's Hospital
325 Garden Boulevard
Mankato, Minnesota 56001

Genevieve Wacker
1243 Pike Lake Drive
New Brighton, MN 55112

Lawrence D. Cohen
JAM
1291 Appletree Square
Minneapolis, MN 55420

Candace Gjertson
4834 37th Avenue South
Minneapolis, MN 55417

Agnes Carlson
3800 Foss Road Northeast
Minneapolis, MN 55421

Marion Alper
Maple Plain, Minn. 55359

Mrs. Theon-Conner
7720 Penn Avenue South
Apt. 101
Minneapolis, MN 55423

Jonathan Ekure
CSR Coordinator
Metropolitan Medical Center
900 South 8th Street
Minneapolis, MN 55404

Prof. Bright Dormblaser
1260 Mayo Mem. Building
Box 97-420 Delaware St. S.E.
Minneapolis, MN 55455

Jean Leary
Western Human Development Cnt.
1106 East College Drive
Marshall, Minn. 56258

Joanne Odegaard
St. Mary's Jr. College
2500 South 6th Street
Minneapolis, MN 55454

Fred Strains, JR.
P.O. Box 14112
Minneapolis, MN 55414

Eleanor Berglund
14526 Orchard Road
Minnetonka, MN 55343

Eunice Hantho
2701 West 43rd
Minneapolis, MN 55410

A. Taaffe, R.N.
4709 Colfax Avenue South
Minneapolis, MN 55409

Sylvia Daly
450 Weston Lane
Wayzata, MN 55391

Mary S. Dorendorf
212 Kings Avenue
Blue Earth, MN 56013

Dorothy Duga
9525 Wayzata Boulevard
Minneapolis, MN 55426

Alatheia B. Einen
5482 North 77th Street
Scottsdale, Ariz. 85253

Sherry Emerson
Route 2, Box 140-D
Rogers, Minnesota 55374

Marilyn Escher
6424 11th Avenue South
Richfield, MN 55423

Lois B. Fisch
395 Woodlawn Avenue
St. Paul, Minnesota 55105

Linda Fobes
14541 Wellington Road
Wayzata, Minn. 55391

Mary Diane Fredricks
4240 Browndale Avenue
St. Louis Park, MN 55415

LaVonne Fritz
3105 Croft Dr. Northeast
Minneapolis, MN 55418

Sandra Gardner
2501 Southwest 6th Street
Willmar, MN 56201

Jean Gregg
1719 West Skillman Avenue
St. Paul, MN 55112

Jeanine Greenfield
2425 Larpenteur Avenue East
Apt. #109
Maplewood, MN 55109

Marjorie Grieshop
5704 25th Avenue South
Minneapolis, MN 55417

Ann W. Harbour
699 Brigadoon Court
St. Paul, MN 55112

Mary M. Hartley
116 Groveland Ave. - Apt. #5
Minneapolis, MN 55403

Mrs. T.T. Helleloid
304 North Spring Avenue
Springfield, MN 56087

Julie A. Houg
117 North Cedar
Waconia, MN 55387

Mary Javurek
3510 Elmwood Place
Minnetonka, MN 55343

Janet Johnson
5837 Jeff Place
Edina, MN 55436

Patricia J. Karle
7248 Candlewood Drive
Brooklyn Park, MN 55445

Mary Lou Knaub
665 Stewart Lane
South St. Paul, MN 55075

Mei Yo Ko
431 Sterling Street
Maplewood, MN 55119

Aileen Konhauser
6313 Halifax Avenue South
Edina, Minnesota 55424

Sharon Landvik
5701 Bernard Place
Edina, MN 55436

Mary Lavaalle
6137 Birchcrest Drive
Edina, Minn. 55436

Phyllis LeMay
4655 128th Street West
Apple Valley, MN 55124

Kathryn Lippman
211 East Skyline Court
Mankato, MN 56001

Alice Lissner
7301 Melody Drive Northeast
Minneapolis, MN 55432

Lois Lynch
5121 Colfax Avenue South
Minneapolis, MN 55419

Janice Mannie
2422 35th Avenue South
Minneapolis, MN 55406

Lucille Marinos
17520 28th Avenue North
Wayzata, Minnesota 55391

Betty Marshall
718 5th Avenue Southwest
Grand Rapids, MN 55744

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities

NOTICE OF HEARING

A public hearing concerning the above-entitled matter will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota, on October 28, 1982, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone: (612) 341-7645 either before the hearing or before the close of the hearing record which shall remain open at least five working days after the hearing is adjourned. The Hearing Examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least two (2) 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 in behalf of such interests. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR (Minnesota Code of Agency Rules) §§ 2.101-2.113. If you have any questions about the procedure, call or write the Hearing Examiner.

The statutory authority for the Commissioner of Health to adopt these rules is contained in the following provisions: Minn. Stat. § 144.573 and § 144A.30 relating to the keeping of pet animals in health care facilities; Minn. Stat. § 626.557 relating to the reporting of abuse and neglect of vulnerable adults receiving services from facilities licensed or certified by the Department of Health; Minn. Stat. § 144.56 and Minn. Stat. §§ 144.02-.07 relating to the amendment of the licensure rules for nursing homes and boarding care homes; Minn. Stat. § 144.56 and Minn. Stat. § 144A.08 which provides the Commissioner a general grant of authority to promulgate rules relating to the construction, maintenance, equipment, operation and licensing of boarding care homes, supervised living facilities and nursing homes; Minn. Stat. § 62E.17 relating to the development of rules governing the operation of Health Maintenance Organizations; and, Minn. Stat. § 144.653 and § 144A.10 which authorizes the Commissioner to develop a schedule of fines for a facility's non-compliance with correction orders and to develop a schedule of allowable times for correction.

The proposed rules address the following subjects:

1. The conditions governing the keeping of pet animals on the premises of a health care facility defined as a hospital, nursing home, boarding care home or supervised living facility.

2. The implementation of the provisions of Minn. Stat. § 626.557, the Vulnerable Adult Abuse Reporting Act. These rules require the development of a facility abuse plan, individual abuse plans and the establishment of an internal reporting mechanism. The rule is applicable to all facilities licensed or certified by the Department.

3. The provisions governing the issuance of licenses to nursing homes including initial licenses, renewal licenses and transfers of interests. The rules also address license amendments and attaching conditions or limitations to a license. The rules implement the provisions of Minn. Stat. §§ 144A.02-.07.

4. The amendment to a provision of 7 MCAR §1.048A.8.c.(7) modifying the requirement that nursing homes and boarding care homes provide on a daily basis a period of time during which a resident can withdraw personal funds held by the facility.

5. The training of unlicensed nursing personnel who administer medications in nursing homes or boarding care homes.

6. The amendment of the schedule of fines for non-compliance with correction orders issued to nursing homes and boarding care homes and the amendment of the schedule of allowable time periods for compliance with a correction order. These amendments address the rules being proposed at this hearing.

7. The amendment to 7 MCAR § 1.377B, relating to the dual option provisions of the Health Maintenance Organization rules.

8. The esablishment of a schedule of fines for non-compliance with correction orders issued to a supervised living facility. The schedule of fines addresses only the rules relating to pets and the Vulnerable Adult Abuse Reporting Act.

A free copy of the rules may be obtained by contacting Michael Tripple, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, telephone: (612) 296-5448. Additional copies will be available at the hearing. If you have any questions about the rules, please contact Mr. Tripple.

Twenty-five (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 Administrative Hearings. This Statement of Need and Reasonableness will include all the evidence which the agency intends to present at the hearing to justify both the need for and the reasonableness of the proposed rule. The agency intends to present only a summary of the Statement of Need and Reasonableness at the hearing; however, additional evidence may be submitted in response to questions raised by interested persons. You are therefore urged to both review the Statement of Need and Reasonableness before the hearing and to attend the hearing. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge. Additional copies will be available at the hearing.

In accordance with the provisions of Minn. Stat. § 144A.29, subdivision 4, a Statement of Anticipated Costs and Benefits will be filed along with the Statement of Need and Reasonableness. The adoption of the proposed rules and rule amendments will not require the expenditure of public funds totaling or exceeding $100,000 by local public bodies in either of the two years immediately following the adoption of the rules or amendments.

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 notification by sending a written request to the Hearing Examiner, in the case of the Hearing Examiner's Report, or to Mr. Tripple, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd.11, (1980) as any individual:

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

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

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

Dated: September 13, 1982

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

s/George R. Pettersen, M.D.
GEORGE R. PETTERSEN, M.D.
Commissioner of Health

Rules as Proposed (all new material)

7 MCAR S 1.042 Pet animals in health care facilities.

A. Definition. As used in 7 MCAR S 1.042, "health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or Minnesota Statutes, sections 144A.01 to 144A.17.

B. Written policy.

1. Every health care facility shall establish a written policy specifying whether or not pet animals can be kept on the facility's premises.

2. If pet animals are allowed to be kept on the premises, the policy must:

a. specify whether or not individual patients or residents will be permitted to keep pets; and

b. specify the restrictions established by the health care facility regarding the keeping of pet animals.

3. This policy must be developed only after consultation with facility staff and with patients or residents, as appropriate.

C. Conditions. If pet animals are allowed to be kept within the facility, the following requirements must be met:

1. A written policy must be developed which specifies the types of pet animals that are allowed to be kept within the health care facility.

2. The policy required by 1. shall be developed in consultation with a veterinarian and a physician to assure that pets which, in their opinion, present a higher risk of transmitting diseases to human beings are not allowed to be kept within the facility.

3. All pet animals must be in good health.

4. The health care facility shall ensure that pets are examined and receive any necessary immunizations or treatments in accordance with a veterinarian's recommendations.

5. A copy of the veterinarian's recommendations as well as records of all examinations, treatments, and immunizations

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shall be retained in the health care facility.

6. Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets kept within or on the premises of the facility.

7. The health care facility shall ensure that no pet creates a nuisance or otherwise jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents, or staff.

8. A facility employee shall be designated as being responsible for the care of all pet animals and for ensuring the cleanliness and maintenance of cages, tanks, and other areas used to house pets.

9. Except for guide dogs accompanying a blind or deaf individual, pets shall not be permitted in areas where food is prepared, served, or stored; in dishwashing areas; dish storage areas; in medication storage areas; in clean or sterile supply storage areas; in nurses' stations; or in any other areas where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety, and well-being of patients or residents.

7 MCAR S 1.043 Preventing abuse and neglect of vulnerable adults in facilities licensed or certified by the Department of Health.

A. Definition. As used in 7 MCAR S 1.043, "facility" has the meaning given it in Minnesota Statutes, section 626.557, subdivision 2, clause (a).

B. General requirement. A facility shall comply with Minnesota Statutes, section 626.557.

C. Facility abuse prevention plan.

1. Every facility which admits vulnerable adults on an inpatient basis shall develop and implement a written plan to prevent abuse in the facility. The plan must be designed to identify and remedy conditions in the population, environment, and physical plant that make patients or residents susceptible to abuse.

2. The plan must meet the following requirements:

a. It must be developed by an interdisciplinary

committee selected by the administrator of the facility.

b. It must be based on a written assessment of the population, environment, and physical plant. The assessment must address areas such as the following: the inability of patients or residents to act for themselves because of physical, mental, or emotional impairments; the possibility that patients or residents will injure themselves or others because of their physical, mental, or emotional conditions; admission policies and continued stay policies; visitation policies and visitor restrictions; the qualifications and training of staff to meet identified patient and resident needs; the adequacy of programs or services provided in the facility; the orientation and ongoing educational programs offered to employees; patient's and resident's room assignments; the physical conditions of the facility such as lighting levels, furniture placement and decor, and the location and surrounding environs of the facility.

c. It must include a written plan to correct or alleviate the conditions identified by the assessment that make patients and residents susceptible to abuse.

d. Its plan to correct the identified conditions must specify the action to be taken and set a schedule for completing the corrections.

e. It must be reviewed at least annually by an interdisciplinary committee and revised if necessary. The date of each review must be recorded on the plan.

D. Individual abuse prevention plan.

1. Every facility which admits vulnerable adults on an inpatient basis shall set written policies and procedures governing the development of written individual abuse prevention plans in accordance with Minnesota Statutes, section 626.557, subdivision 14, clause (b).

2. The policies and procedures must meet the following requirements:

a. They must establish the mechanism for developing the individual abuse prevention plans.

b. They must require that an interdisciplinary team

conduct for each patient or resident an initial individual assessment that addresses the individual's susceptibility to abuse and the measures to be taken to minimize the risk of abuse to that resident.

c. They must require that the plan is developed as part of the initial plan of care for the patient or resident.

d. They must require at least an annual review of the plan as long as the patient or resident stays in the facility.

e. They must require that the individual's plan be revised whenever necessary.

3. The development, review, and revision of the individual abuse plans may be part of a patient's and resident's care plan.

E. Internal reporting system.

1. The facility shall set up a mechanism to ensure that all suspected cases of abuse or neglect are reported to an individual mandated to report under Minnesota Statutes, section 626.557 and are promptly investigated by facility staff.

2. The facility shall designate the person responsible for reviewing and investigating all suspected cases of abuse or neglect. However, if the person responsible for the review and investigation is suspected of committing abuse or neglect, the facility shall authorize another to conduct the review and investigation.

3. The facility shall designate the person responsible for reporting all cases of abuse or neglect to the appropriate authority in accordance with Minnesota Statutes, section 626.557.

4. The facility shall keep written records of reviews and investigations of suspected cases of abuse or neglect. These records must include a summary of the findings, persons involved, persons interviewed or notified, conclusions, and actions taken. A copy of the completed record shall be forwarded to the Office of Health Facility Complaints of the Department of Health.

5. When a patient or resident is admitted, the facility shall explain its internal reporting mechanism to the individual

or to the people legally responsible for the patient or resident. It shall also inform these people that anyone may report suspected cases of abuse and neglect directly to outside agencies.

F. Notification. The facility shall inform its staff of the mandatory reporting requirements and of the responsibilities imposed on the facility staff by Minnesota Statutes, section 626.557. It shall also inform its staff that anyone may report suspected cases of abuse or neglect directly to the appropriate outside agencies. An explanation of the facility's abuse prevention plan, individual abuse prevention plans, and internal reporting mechanism must be part of the facility's orientation and inservice training programs.

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Rules as Proposed

7 MCAR S 1.044 Definitions, general provisions, issuance of licenses.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

For the purpose of these regulations: A state license is required for any facility where nursing, personal or custodial care is provided for five or more aged or infirm persons who are not acutely ill.

A.-S. [Unchanged.]

T. Procedure for licensing of boarding care homes. ~~Any person acting individually or jointly with other persons who proposes to build, own, establish or operate a nursing home or a boarding care home shall submit a preliminary information questionnaire as furnished by the department at the time of initial contact as specified under MHB 44(s).~~ Application for a license to establish or maintain ~~such a facility~~ a boarding care home shall be made in writing and submitted on forms provided by the department. If the applicant is a corporation, the officers shall furnish the department a copy of the articles of incorporation and bylaws and any amendments thereto as they occur. In addition, out-of-state corporations shall furnish the department with a copy of the certificate of authority to do business in Minnesota. No license shall be issued until all final inspections and clearances pertinent to applicable laws and regulations have been complied with.

U.-X. [Unchanged.]

Y. Procedures for licensing nursing homes.

1. Initial licensure. For the purpose of Y., initial licensure applies to newly constructed facilities designed to operate as nursing homes and to other facilities not already licensed as nursing homes. Applicants for initial licensure shall complete the license application form supplied by the department. Applications for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.

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To be issued a license, the applicant must file with the department a copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.

If the applicant for licensure is a corporation, it shall submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. Applicants must submit these documents in order to be issued licenses. The department shall issue the initial license as of the date the department determines that the nursing home is in compliance with Minnesota Statutes, sections 144A.02 to 144A.16 and 7 MCAR SS 1.044-1.072, unless the applicant requests a later date.

2. Renewed licenses. An applicant for license renewal shall complete the license application form supplied by the department. Applications must be submitted at least 60 days before the expiration of the current license and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.

If the licensee is a corporation, it shall submit any amendments to its articles of incorporation or bylaws along with the renewal application.

If the application specifies a different licensed capacity from that provided on the current license, the licensee shall follow the procedures relating to license amendments specified in 6. If the changes are not approved before the current license expires, the renewed license will be issued without reflecting the requested changes.

3. Transfer of interests; notice. A controlling person, as defined in Minnesota Statutes, section 144A.01, subdivision 4, who transfers an interest in the nursing home shall notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests,

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and the date of the transfer.

4. Transfer of interest; expiration of license. A transfer of interest will result in the expiration of the nursing home's license under the following conditions:

a. if the transferred interest exceeds ten percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses an interest in excess of 50 percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or

b. if the transferred interest exceeds 50 percent of the total interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.

Under either of these conditions, the nursing home license expires 90 days after the date of the transfer or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90-day period, the licensee shall apply for a renewed license in accordance with section 2. The department shall notify the licensee by certified mail at least 60 days before the license expires.

5. Transfer of interest; relicensure. A controlling person may apply for relicensure by submitting the license application form at least 45 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. If the applicant for relicensure is a corporation, it shall submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. The department shall relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with Minnesota

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Statutes, sections 144A.02 to 144A.16 and 1.-12., unless the applicant requests a later time. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

6. Amendment to the license. If the nursing home requests changes in its licensed capacity or in the level of care provided, it shall submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. The amendment to a license is effective for the remainder of the nursing home's licensure year.

7. Issuing conditions or limitations on the license. The department may attach to the license any conditions or limitations it considers necessary to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and well-being of the nursing home's residents. A condition or limitation may be attached when a license is first issued, when it is renewed, or during the course of the licensure year.

8. Reasons for conditions or limitations. In deciding to condition or limit a license the department shall consider at least the following:

a. the nature and number of correction orders or penalty assessments issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

b. the commission of illegal acts by any of the controlling persons or employees of the nursing home;

c. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

d. the condition of the physical plant or physical environment; or

e. the existence of any outstanding variances or waivers.

9. Types of conditions or limitations. The types of conditions or limitations that may be attached to the license include at least the following:

a. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;

b. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or

c. imposition of schedules for the completion of specified activities.

10. Statement of conditions or limitations. The department shall notify the applicant or licensee, in writing, of its decision to issue a conditional or limited license. The department shall inform the applicant or licensee of the reasons for the condition or limitation and of the right to appeal. Unless otherwise specified, any condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists. The licensee shall notify the department when the reasons for the condition or limitation no longer exists. If the department determines that the condition or limitation is no longer required, it shall be removed from the license.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license in an accessible and visible location.

11. Effect of a condition or limitation. A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with Minnesota Statutes, section 144A.11.

If the department issues a correction order, it shall determine the time allowed for correction. That time period

must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. If the department assesses a fine, the fine is $250. The fine accrues on a daily basis in accordance with Minnesota Statutes, section 144A.10.

12. Appeal procedure. The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceeding under the Administrative Procedure Act, Minnesota Statutes, sections 15.0418 to 15.0426, within 15 days after receiving the notification described in 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional or limited license should not be issued. Except in a proceeding challenging the decision to condition or limit a current or renewal license, the applicant has the burden of proving that an unrestricted license should be issued.

7 MCAR S 1.046 General policies.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

(a)-(f) [See relettering instruction.]

~~(g)~~ G. ~~Animals or birds. No animals, birds, turtles or reptiles shall be housed in a nursing home or in a boarding care home~~ Pet animals. Pet animals may be kept on the premises of a nursing home or boarding care home only in accordance with the provisions of 7 MCAR S 1.042.

(h)-(k) [See relettering instruction.]

L. [Unchanged.]

M. Compliance with the Vulnerable Adult Abuse Reporting Act. Each nursing home or boarding care home shall comply with the provisions of Minnesota Statutes, section 626.557 and the provisions of 7 MCAR S 1.043.

7 MCAR S 1.048 Records and reports.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

A. Patient or resident care record. An individual chart shall be kept on each patient and resident admitted to the home. All entries shall be made with a pen and signed by the

person making the entry. Accurate, complete and legible records for each patient or resident from the time of admission to the time of discharge or death shall be kept current and shall be maintained in a chart holder at the nurses' or attendants' station.

1.-7. [Unchanged.]

8. Record of patients' and residents' funds.

a.-b. [Unchanged.]

c. Personal fund accounts.

(1)-(6) [Unchanged.]

(7) Upon the request of the patient or resident or the patient's or resident's legal guardian or conservator or representative payee, the nursing home or boarding care home shall return all or any part of the patient's or resident's funds given to the nursing home or boarding care home for safekeeping, including interest, if any, accrued from deposits. The nursing home or boarding care home shall develop a policy specifying the period of time during which funds can be withdrawn ~~on each day of the week~~. This policy must ensure that the ability to withdraw funds is provided in accordance with the needs of the residents. The nursing home or boarding care home shall notify patients and residents of the time periods during which funds can be withdrawn. The nursing home or boarding care home shall establish a procedure allowing residents to obtain funds to meet unanticipated needs on days when withdrawal periods are not scheduled. Funds kept outside of the facility shall be returned within five business days.

d.-e. [Unchanged.]

9.-11. [Unchanged.]

7 MCAR S 1.053 Medications.

THE FOLLOWING APPLY TO NURSING HOMES ONLY:

(a)-(e) [See relettering instruction.]

F. [Unchanged.]

(g)-(m) [See relettering instruction.]

N. Administration of medications by unlicensed personnel.

THE FOLLOWING APPLIES TO BOTH NURSING HOMES AND BOARDING CARE

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HOMES: Unlicensed nursing personnel who administer medications in a nursing home or boarding care home must have completed a medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution. The nursing home or boarding care home shall keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

7 MCAR S 1.057 Schedule of fines for uncorrected deficiencies.

~~(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)~~

A. Nursing homes and boarding care homes. A $50 penalty assessment will be issued under the provisions of Minnesota Statutes, section 144.653, subdivision 6 ~~(1974)~~ for noncompliance with correction orders relating to the sections of these regulations listed below:

~~MHD~~ 44 ~~(o), (p), (q), (s), (t), (u)~~ 1. 7 MCAR S 1.044 O., P., Q., S., T., U.;

2. MHD 45 (a)(3); (f); (h)(1); (h)(2)(aa); (h)(2)(ff); (h)(4);

3. MHD 46 (a); (b); (j); (k);

4. MHD 47 (c); (e);

5. MHD 48 (a)(4); (a)(5); (a)(6); (a)(7); (a)(9); (a)(11);

6. MHD 50 (a); (j);

7. MHD 52 (a)(2); (a)(3); (a)(4); (a)(9); (d); (e);

8. MHD 54 (a)(7); (b)(5);

9. MHD 55 (i);

10. MHD 56 (f); (h); and

11. MHD 64 (a)(22); (b)(15).

B. Nursing homes and boarding care homes. A $250 penalty assessment will be issued under the provisions of Minnesota Statutes, section 144.653, subdivision 6 ~~(1974)~~ for noncompliance with correction orders relating to all other sections of these regulations not specifically enumerated in ~~section~~ A. ~~or~~, C., or D.

C. Boarding care homes.

1. A $50 penalty assessment will be issued to a boarding

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care home under the provisions of Minnesota Statutes, section 144.653, subdivision 6 for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 B.1.;
b. 7 MCAR S 1.042 B.2.;
c. 7 MCAR S 1.042 B.3.;
d. 7 MCAR S 1.042 C.1.;
e. 7 MCAR S 1.042 C.5.;
f. 7 MCAR S 1.043 C.2.a.;
g. 7 MCAR S 1.043 D.3.;
h. 7 MCAR S 1.048 A.4.;
i. 7 MCAR S 1.048 A.8.a.;
j. 7 MCAR S 1.048 A.8.b.(2);
k. 7 MCAR S 1.048 A.8.c.(3);
l. 7 MCAR S 1.048 A.8.c.(5);
m. 7 MCAR S 1.048 A.8.c.(6);
n. 7 MCAR S 1.048 A.8.d.;
o. 7 MCAR S 1.048 A.8.e.;
p. 7 MCAR S 1.052 A.1.b.; and
q. 7 MCAR S 1.055 U.1.b.(1)(c).

2. A $250 penalty assessment will be issued to a boarding care home under the provisions of Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.2.;
b. 7 MCAR S 1.042 C.3.;
c. 7 MCAR S 1.042 C.4.;
d. 7 MCAR S 1.042 C.6.;
e. 7 MCAR S 1.042 C.7.;
f. 7 MCAR S 1.042 C.8.;
g. 7 MCAR S 1.042 C.9.;
h. 7 MCAR S 1.043 B.;
i. 7 MCAR S 1.043 C.1.;
j. 7 MCAR S 1.043 C.2.b.;
k. 7 MCAR S 1.043 C.2.c.;
l. 7 MCAR S 1.043 C.2.d.;

m. 7 MCAR S 1.043 C.2.e.;
n. 7 MCAR S 1.043 D.1.;
o. 7 MCAR S 1.043 D.2.a.;
p. 7 MCAR S 1.043 D.2.b.;
q. 7 MCAR S 1.043 D.2.c.;
r. 7 MCAR S 1.043 D.2.d.;
s. 7 MCAR S 1.043 D.2.e.;
t. 7 MCAR S 1.043 E.1.;
u. 7 MCAR S 1.043 E.2.;
v. 7 MCAR S 1.043 E.3.;
w. 7 MCAR S 1.043 E.4.;
x. 7 MCAR S 1.043 E.5.; and
y. 7 MCAR S 1.043 F.

~~C.~~ D. Nursing homes.

1. A $50 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 B.1.;
b. 7 MCAR S 1.042 B.2.;
c. 7 MCAR S 1.042 B.3.;
d. 7 MCAR S 1.042 C.1.;
e. 7 MCAR S 1.042 C.5.;
f. 7 MCAR S 1.043 C.2.a.;
g. 7 MCAR S 1.043 D.3.
h. 7 MCAR S 1.044 Y.2.;
i. 7 MCAR S 1.044 Y.3.;
~~a.~~ j. 7 MCAR S 1.048 A.4.;
~~b.~~ k. 7 MCAR S 1.048 A.8.a.;
~~c.~~ l. 7 MCAR S 1.048 A.8.b.(2);
~~d.~~ m. 7 MCAR S 1.048 A.8.c.(3);
~~e.~~ n. 7 MCAR S 1.048 A.8.c.(5);
~~f.~~ n. 7 MCAR S 1.048 A.8.c.(6);
~~g.~~ o. 7 MCAR S 1.048 A.8.d.;
~~h.~~ p. 7 MCAR S 1.048 A.8.e.;
~~i.~~ q. 7 MCAR S 1.052 A.1.b.;
~~j.~~ r. 7 MCAR S 1.053 F.2.;

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~~k.~~ s. 7 MCAR S 1.055 U.1.b.(1)(c); and

~~l.~~ t. 7 MCAR S 1.064 A.3.f.(1)(a).

2. A $150 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.2.;
b. 7 MCAR S 1.042 C.3.;
c. 7 MCAR S 1.042 C.4.;
d. 7 MCAR S 1.042 C.6.;
e. 7 MCAR S 1.042 C.7.;
f. 7 MCAR S 1.042 C.8.;
g. 7 MCAR S 1.042 C.9.;
h. 7 MCAR S 1.043 B.;
i. 7 MCAR S 1.043 C.1.;
j. 7 MCAR S 1.043 C.2.b.;
k. 7 MCAR S 1.043 C.2.c.;
l. 7 MCAR S 1.043 C.2.d.;
m. 7 MCAR S 1.043 C.2.e.;
n. 7 MCAR S 1.043 D.1.;
o. 7 MCAR S 1.043 D.2.a.;
p. 7 MCAR S 1.043 D.2.b.;
q. 7 MCAR S 1.043 D.2.c.;
r. 7 MCAR S 1.043 D.2.d.;
s. 7 MCAR S 1.043 D.2.e.;
t. 7 MCAR S 1.043 E.1.;
u. 7 MCAR S 1.043 E.2.;
v. 7 MCAR S 1.043 E.3.;
w. 7 MCAR S 1.043 E.4.;
x. 7 MCAR S 1.043 E.5.;
y. 7 MCAR S 1.043 F.;

~~a.~~ z. 7 MCAR S 1.046 L.2.b.;

~~b.~~ aa. 7 MCAR S 1.046 L.2.c.;

~~c.~~ bb. 7 MCAR S 1.046 L.2.d.;

~~d.~~ cc. 7 MCAR S 1.046 L.2.e.;

~~e.~~ dd. 7 MCAR S 1.046 L.2.f.;

~~f.~~ ee. 7 MCAR S 1.046 L.3.;

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g. ff. 7 MCAR S 1.047 A.;

h. gg. 7 MCAR S 1.048 A.8.b.(1);

i. hh. 7 MCAR S 1.048 A.8.c.(1);

j. ii. 7 MCAR S 1.048 A.8.c.(2);

k. jj. 7 MCAR S 1.048 A.8.c.(4)(a);

l. kk. 7 MCAR S 1.048 A.8.c.(4)(b);

m. ll. 7 MCAR S 1.048 A.8.c.(4)(c);

n. mm. 7 MCAR S 1.048 A.8.c.(7);

nn. 7 MCAR S 1.053 N.;

o. oo. 7 MCAR S 1.055 U.1.b.(1)(a);

p. pp. 7 MCAR S 1.055 U.1.b.(1)(b);

q. qq. 7 MCAR S 1.055 U.1.b.(2)(a);

r. rr. 7 MCAR S 1.055 U.1.b.(2)(b);

s. ss. 7 MCAR S 1.055 U.1.b.(2)(c);

t. tt. 7 MCAR S 1.055 U.1.b.(2)(d);

u. uu. 7 MCAR S 1.055 U.1.b.(2)(e);

v. vv. 7 MCAR S 1.055 U.1.b.(2)(f);

w. ww. 7 MCAR S 1.055 U.1.b.(2)(g);

x. xx. 7 MCAR S 1.055 U.1.b.(2)(h); and

y. yy. 7 MCAR S 1.055 U.1.b.(2)(i).

3. A $250 penalty assessment shall be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.046 L.2.a.; and

b. 7 MCAR S 1.064 A.3.f.(1)(b).

7 MCAR S 1.058 Allowable time periods for correction.

A. Allowable time periods for correction. The allowable time periods for complying with a correction order issued by the department shall be as follows:

1. 7 MCAR S 1.044		
a. Y.2.		14 days
b. Y.3.		14 days
1.-4. [See renumbering instruction.]		
5. 6. 7 MCAR S 1.053		
a. F.2.		30 days
b. N.		14 days

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6.-7. [See renumbering instruction.]

9. 7 MCAR S 1.042

a. B.1.	30 days
b. B.2.	30 days
c. B.3.	30 days
d. C.1.	30 days
e. C.2.	30 days
f. C.3.	14 days
g. C.4.	14 days
h. C.5.	14 days
i. C.6.	14 days
j. C.7.	14 days
k. C.8.	14 days
l. C.9.	14 days

10. 7 MCAR S 1.043

a. B.	14 days
b. C.1.	14 days
c. C.2.a.	14 days
d. C.2.b.	14 days
e. C.2.c.	14 days
f. C.2.d.	14 days
g. C.2.e.	14 days
h. D.1.	14 days
i. D.2.a.	14 days
j. D.2.b.	14 days
k. D.2.c.	14 days
l. D.2.d.	14 days
m. D.2.e.	14 days
n. D.3.	14 days
o. E.1.	14 days
p. E.2.	14 days
q. E.3.	14 days
r. E.4.	14 days
s. E.5.	14 days

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t. F. 14 days

B. [Unchanged.]

C. Decreasing the time allowed for correction. The department shall allow the nursing home the period of time for correction specified in section A. unless the department determines that a violation must be corrected within a shorter time because noncompliance will jeopardize the health, treatment, safety, comfort, or well-being of the nursing home residents. If the department orders a shorter period of time for correction, that time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. No provision in 7 MCAR S 1.058 prevents the department from ordering immediate correction of a deficiency if necessary to protect the health, treatment, safety, comfort, and well-being of the nursing home residents.

7 MCAR S 1.377 General provisions.

A. [Unchanged.]

B. Applicability to employers.

1.-4. [Unchanged.]

5. An employer which is preempted from complying with Minnesota Statutes, section 62E.17, subdivision 1, as a result of the Employee Retirement Income Security Act, United States Code, title 29, sections 1144 (a) and 1144 (b)(2)(B) is not an "applicable employer" for the purposes of 7 MCAR SS 1.366 to 1.380.

C.-F. [Unchanged.]

7 MCAR S 1.392 General provisions.

A.-B. [Unchanged.]

(c)-(l) [See relettering instruction.]

M. Pet animals. Pet animals may be kept on the premises of a supervised living facility only in accordance with the provisions of 7 MCAR S 1.042.

N. Compliance with the Vulnerable Adult Abuse Reporting Act.

Each supervised living facility shall comply with the provisions of Minnesota Statutes, section 626.557 and the provisions of 11 MCAR S 1.043.

O. Schedule of fines for uncorrected deficiencies.

1. A $50 penalty assessment will be issued to a supervised living facility under Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the rules listed below:

a. 7 MCAR S 1.042 B.1.;
b. 7 MCAR S 1.042 B.2.;
c. 7 MCAR S 1.042 B.3.;
d. 7 MCAR S 1.042 C.1.;
e. 7 MCAR S 1.042 C.5.;
f. 7 MCAR S 1.043 C.2.a.; and
g. 7 MCAR S 1.043 D.3.

2. A $250 penalty assessment will be issued to a supervised living facility under Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR S 1.042 C.2.;
b. 7 MCAR S 1.042 C.3.;
c. 7 MCAR S 1.042 C.4.;
d. 7 MCAR S 1.042 C.6.;
e. 7 MCAR S 1.042 C.7.;
f. 7 MCAR S 1.042 C.8.;
g. 7 MCAR S 1.042 C.9.;
h. 7 MCAR S 1.043 B.;
i. 7 MCAR S 1.043 C.1;
j. 7 MCAR S 1.043 C.2.b.;
k. 7 MCAR S 1.043 C.2.c.;
l. 7 MCAR S 1.043 C.2.d.;
m. 7 MCAR S 1.043 C.2.e.;
n. 7 MCAR S 1.043 D.1.;
o. 7 MCAR S 1.043 D.2.a.;
p. 7 MCAR S 1.043 D.2.b.;
q. 7 MCAR S 1.043 D.2.c.;

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

r. 7 MCAR S 1.043 D.2.d.;

s. 7 MCAR S 1.043 D.2.e.;

t. 7 MCAR S 1.043 E.1.;

u. 7 MCAR S 1.043 E.2.;

v. 7 MCAR S 1.043 E.3.;

w. 7 MCAR S 1.043 E.4.;

x. 7 MCAR S 1.043 E.5.; and

y. 7 MCAR S 1.043 F.

Relettering and renumbering. Reletter 7 MCAR S 1.046 (a)-(f) as A.-F.; (h)-(k) as H.-K.; 7 MCAR S 1.053 (a)-(e) as A.-E.; (g)-(m) as G.-M.; and 7 MCAR S 1.392 (c)-(l) as C.-L. Renumber 7 MCAR S 1.058 A.1.-4. as A.2.-5.; and A.6.-7. as A.7.-8.

RECEIVED
OCT 1 1982
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

AFFIDAVIT
OF MAILING

Agency Exh. No. 6
File No. HLTH-83-005-JL
Date 10-28-82

Linda Karwoski, being first duly sworn, deposes and says:

1. That on the 27 day of September, 1982, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing and proposed rules by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on Exhibit A, attached and made a part hereof.

Linda M. Karwoski

Subscribed and sworn to before
me this 27th day of September, 1982

Marie B. Tromiczak

MARIE B. TROMICZAK
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct. 23, 1987

~~Stephen Goldstone~~
MedCenter Health Plan
4959 Excelsior Boulevard
St. Louis Park, MN 55416

Richard Burke
Physicians' Health Plan
~~Suite 500~~
~~510 Marquette~~
~~Minneapolis, MN 55401~~

~~Maurice J. McKay~~ Exhibit 19
Group Health Plan
2500 Como Avenue
St. Paul, MN 55108

John Hoefs
HMO Minnesota
3535 Blue Cross Road
St. Paul, Minnesota 55164

Robert Ditmore
SHARE
7920 Cedar Avenue South
Bloomington, Minnesota 55420

Charles Bredeson
Nicollet-Eitel Health Plan
~~7901 Xerxes Avenue South~~
~~Bloomington, Minnesota 554~~

Michael Bronk
Coordinated Health Care
258 University Avenue
St. Paul, Minnesota 55101

Sharon Seivert
Central MN Group Health Plan
1411 St. Germain Street
St. Cloud, Minnesota 56301

John Bjorum
Community Health Center
Fourth Street at 11th Avenu
Two Harbors, Minnesota 556

Lou Pizer
Group Health Assoc. of NE MN
307 First Street North
Virginia, Minnesota 55792

James Kohrt
Cargill, Inc.
P.O. Box 9300
Minneapolis, Minnesota 55440

Merlyn R. Scroggins
Deluxe Check Printers
P.O. Box 3399
St. Paul, Minnesota 55165

George Amble
Deluxe Check Printers
P.O. Box 3399
St. Paul, Minnesota 55165

Emily Ann Culver
Economics Laboratory
Benefits Department
3705 Wabasha Street
St. Paul, Minnesota 55102

Joy Lachermeier
General Mills
9200 Wayzata Boulevard
Minneapolis, Minnesota 554

Gerald J. Santers
International Multifoods
1200 Multifoods Building
Minneapolis, Minnesota 55402

Susan Kinder
NW National Bank of Mpls.
7th and Marquette
Minneapolis, Minnesota 55402

Gary Mittelbusher
Onan Corporation
1400 73rd Avenue Northeast
Minneapolis, Minnesota 554

Kathy Sanders
Pillsbury Company
608 2nd Avenue South
Minneapolis, Minnesota 55402

D. J. Robinson
St. Paul Companies
385 Washington Street
St. Paul, Minnesota 55102

Sue Odette
Investment Diversified Ser.
3300 IDS Tower
Minneapolis, Minnesota 554

Dave Smith
Ochs Agency
345 Cedar Street
St. Paul, Minnesota 55101

Paula Roe
Dayton Hudson Corp.
777 Nicollet Mall
Minneapolis, Minnesota 55402

Diane Pazdolski
Dayton Hudson Corp.
777 Nicollet Mall
Minneapolis, Minnesota 554

Ruth Stack
NAEHMO
1134 Chamberof Commerce Bldg.
15 South 5th Street
Minneapolis, MN 55402

Paul Norris, III
Advance Machine Company
P.O. Box 275
Spring Park, Minnesota 55384

Elaine Beyer
First Bank System
1300 First National Bank Bld
120 South 6th Street
Minneapolis, MN 55402

Angie Guggenberger Nelson
HQN06U
Control Data Corporation
Box 0
Minneapolis, MN 55440

Harry Rosaason
Manager of Group Insurance
Mail Station MN126245
Honeywell Plaza
Minneapolis, Minnesota 55408

Liz Solem
Employee Benefits Dept./3M
224-2E/3M Center
St. Paul, Minnesota 55144

eonard Hegna
/o V.P. Alexander & Alexander
nelard Plaza
inneapolis, MN 55426

harles Geer
orsey, Windhorst, Hannaford
Whitney & Halladay
300 1st National Bank Bldg.
inneapolis, MN 55402

innesota Senior Federation
01 Fuller Avenue
t. Paul, Minnesota 55103

Sally Martin
27 Seventh Street N.W.
Suite 156
Rochester, Minnesota 55901

Harry Sutton
TPF&C
2850 Metro Drive
Minneapolis, Minnesota 55420

Geoffery S. Workinger
General Mills, Inc.
P.O. Box 1113
Minneapolis, MN 55440

John F. Stone
oss, Flaherty, Clarkson &
Fletcher
80 So. 8th St., 2350 IDS Ctr.
Minneapolis, Minnesota 55402

Robert Harder
Minnesota Dental Association
2236 Marshall Avenue
St. Paul, Minnesota 55104

RECEIVED
OCT 1 1982
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

AFFIDAVIT
OF DELIVERY

Agency Exh. No. 7
File No. HLTH-83-005-JL
Date 10/28/82

Gretchen Hayes, being first duly sworn, deposes and says:

That on the 17 day of September, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing on all members of the Minnesota Legislature as of the above-referenced date by delivering personally a copy for each Senator and Representative to the mail rooms for the Minnesota Senate and Minnesota House of Representatives in the State Capitol for placement in their respective mail boxes.

Gretchen Hayes

Subscribed and sworn to before
me this 21 day of September, 1982

Frederick L. King

FREDERICK L. KING
WASHINGTON COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES FEB. 22, 1984

RECEIVED
OCT 1 1982
ADMINISTRATIVE HEARINGS

disclosure of the contents of Laws of 1982, chapter 526, article II, section 7, subdivision 1, regarding in-park sales of manufactured homes.

2 MCAR § 1.8023 Enforcement. The commissioner shall administer and enforce 2 MCAR §§ 1.8001-1.8023. Any authorized representative of the commissioner may at any reasonable time enter the premises where manufactured homes are manufactured, or where new or used manufactured homes are sold, solicited, brokered, or advertised for sale, and may examine the manufacturer's or dealer's records to the extent necessary to enforce the provisions of 2 MCAR §§ 1.8001-1.8023.

Agency Exh. No. 10
File No. HLTH-83-005-JL
Date 10-28-82

Department of Health
Health Systems Division

Proposed Rules Relating to the Keeping of Pet Animals in Health Care Facilities; Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; the Operation and Licensing of Nursing Homes and Boarding Care Homes; the Dual Option Provisions of the Health Maintenance Organization Rules; and the Issuance of Fines to Supervised Living Facilities.

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota, on October 28, 1982, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone: (612) 341-7645 either before the hearing or before the close of the hearing record which shall remain open at least five working days after the hearing is adjourned. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least two (2) 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 in behalf of such interests. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR (Minnesota Code of Agency Rules) §§ 2.101-2.113. If you have any questions about the procedure, call or write the hearing examiner.

The statutory authority for the Commissioner of Health to adopt these rules is contained in the following provisions: Minn. Stat. §§ 144.573 and 144A.30 relating to the keeping of pet animals in health care facilities; Minn. Stat. § 626.557 relating to the reporting of abuse and neglect of vulnerable adults receiving services from facilities licensed or certified by the Department of Health; Minn. Stat. §§ 144.56 and 144.02-.07 relating to the amendment of the licensure rules for nursing homes and boarding care homes; Minn. Stat. §§ 144.56 and 144A.08 which provides the commissioner a general grant of authority to promulgate rules relating to the construction, maintenance, equipment, operation and licensing of boarding care homes, supervised living facilities and nursing homes; Minn. Stat. § 62E.17 relating to the development of rules governing the operation of Health Maintenance Organizations; and, Minn. Stat. §§ 144.653 and 144A.10 which authorizes the commissioner to develop a schedule of fines for a facility's noncompliance with correction orders and to develop a schedule of allowable times for correction.

The proposed rules address the following subjects:

1. The conditions governing the keeping of pet animals on the premises of a health care facility defined as a hospital, nursing home, boarding care home or supervised living facility.

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

2. The implementation of the provisions of Minn. Stat. § 626.557, the Vulnerable Adult Abuse Reporting Act. These rules require the development of a facility abuse plan, individual abuse plans and the establishment of an internal reporting mechanism. The rule is applicable to all facilities licensed or certified by the department.

3. The provisions governing the issuance of licenses to nursing homes including initial licenses, renewal licenses and transfers of interests. The rules also address license amendments and attaching conditions or limitations to a license. The rules implement the provisions of Minn. Stat. §§ 144A.02-.07.

4. The amendment to a provision of 7 MCAR § 1.048A.8.c.(7) modifying the requirement that nursing homes and boarding care homes provide on a daily basis a period of time during which a resident can withdraw personal funds held by the facility.

5. The training of unlicensed nursing personnel who administer medications in nursing homes or boarding care homes.

6. The amendment of the schedule of fines for noncompliance with correction orders issued to nursing homes and boarding care homes and the amendment of the schedule of allowable time periods for compliance with a correction order. These amendments address the rules being proposed at this hearing.

7. The amendment to 7 MCAR § 1.377B, relating to the dual option provisions of the Health Maintenance Organization rules.

8. The establishment of a schedule of fines for noncompliance with correction orders issued to a supervised living facility. The schedule of fines addresses only the rules relating to pets and the Vulnerable Adult Abuse Reporting Act.

A free copy of the rules may be obtained by contacting Michael Tripple, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, telephone: (612) 296-5448. Additional copies will be available at the hearing. If you have any questions about the rules, please contact Mr. Tripple.

Twenty-five (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 Administrative Hearings. This statement of need and reasonableness will include all of the evidence which the agency intends to present at the hearing to justify both the need for and the reasonableness of the proposed rule. The agency intends to present only a summary of the statement of need and reasonableness at the hearing; however, additional evidence may be submitted in response to questions raised by interested persons. You are therefore urged to both review the statement of need and reasonableness before the hearing and to attend the hearing. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings for a minimal charge. Additional copies will be available at the hearing.

In accordance with the provisions of Minn. Stat. § 144A.29, subdivision 4, a statement of anticipated costs and benefits will be filed along with the statement of need and reasonableness. The adoption of the proposed rules and rule amendments will not require the expenditure of public funds totaling or exceeding $100,000 by local public bodies in either of the two years immediately following the adoption of the rules or amendments.

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 notification by sending a written request to the Hearing Examiner, in the case of the Hearing Examiner's Report, or to Mr. Tripple, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, (1980) as any individual:

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

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

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

September 13, 1982

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

Rules as Proposed (all new material)

7 MCAR § 1.042 Pet animals in health care facilities.

A. Definition. As used in 7 MCAR § 1.042, "health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or Minnesota Statutes, sections 144A.01 to 144A.17.

B. Written policy.

1. Every health care facility shall establish a written policy specifying whether or not pet animals can be kept on the facility's premises.

2. If pet animals are allowed to be kept on the premises, the policy must:

a. specify whether or not individual patients or residents will be permitted to keep pets; and

b. specify the restrictions established by the health care facility regarding the keeping of pet animals.

3. This policy must be developed only after consultation with facility staff and with patients or residents, as appropriate.

C. Conditions. If pet animals are allowed to be kept within the facility, the following requirements must be met:

1. A written policy must be developed which specifies the types of pet animals that are allowed to be kept within the health care facility.

2. The policy required by 1. shall be developed in consultation with a veterinarian and a physician to assure that pets which, in their opinion, present a higher risk of transmitting diseases to human beings are not allowed to be kept within the facility.

3. All pet animals must be in good health.

4. The health care facility shall ensure that pets are examined and receive any necessary immunizations or treatments in accordance with a veterinarian's recommendations.

5. A copy of the veterinarian's recommendations as well as records of all examinations, treatments, and immunizations shall be retained in the health care facility.

6. Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets kept within or on the premises of the facility.

7. The health care facility shall ensure that no pet creates a nuisance or otherwise jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents, or staff.

8. A facility employee shall be designated as being responsible for the care of all pet animals and for ensuring the cleanliness and maintenance of cages, tanks, and other areas used to house pets.

9. Except for guide dogs accompanying a blind or deaf individual, pets shall not be permitted in areas where food is prepared, served, or stored; in dishwashing areas; dish storage areas; in medication storage areas; in clean or sterile supply storage areas; in nurses' stations; or in any other areas where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety, and well-being of patients or residents.

7 MCAR § 1.043 Preventing abuse and neglect of vulnerable adults in facilities licensed or certified by the Department of Health.

A. Definition. As used in 7 MCAR § 1.043, "facility" has the meaning given it in Minnesota Statutes, section 626.557, subdivision 2, clause (a).

B. General requirement. A facility shall comply with Minnesota Statutes, section 626.557.

C. Facility abuse prevention plan.

1. Every facility which admits vulnerable adults on an inpatient basis shall develop and implement a written plan to prevent abuse in the facility. The plan must be designed to identify and remedy conditions in the population, environment, and physical plant that makes patients or residents susceptible to abuse.

2. The plan must meet the following requirements:

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a. It must be developed by an interdisciplinary committee selected by the administrator of the facility.

b. It must be based on a written assessment of the population, environment, and physical plant. The assessment must address areas such as the following: the inability of patients or residents to act for themselves because of physical, mental, or emotional impairments; the possibility that patients or residents will injure themselves or others because of their physical, mental, or emotional conditions; admission policies and continued stay policies; visitation policies and visitor restrictions; the qualifications and training of staff to meet identified patient and resident needs; the adequacy of programs or services provided in the facility; the orientation and ongoing educational programs offered to employees; patient's and resident's room assignments; the physical conditions of the facility such as lighting levels, furniture placement and decor, and the location and surrounding environs of the facility.

c. It must include a written plan to correct or alleviate the conditions identified by the assessment that make patients and residents susceptible to abuse.

d. Its plan to correct the identified conditions must specify the action to be taken and set a schedule for completing the corrections.

e. It must be reviewed at least annually by an interdisciplinary committee and revised if necessary. The date of each review must be recorded on the plan.

D. Individual abuse prevention plan.

1. Every facility which admits vulnerable adults on an inpatient basis shall set written policies and procedures governing the development of written individual abuse prevention plans in accordance with Minnesota Statutes, section 626.557, subdivision 14, clause (b).

2. The policies and procedures must meet the following requirements:

a. They must establish the mechanism for developing the individual abuse prevention plans.

b. They must require that an interdisciplinary team conduct for each patient or resident an initial individual assessment that addresses the individual's susceptibility to abuse and the measures to be taken to minimize the risk of abuse to that resident.

c. They must require that the plan is developed as part of the initial plan of care for the patient or resident.

d. They must require at least an annual review of the plan as long as the patient or resident stays in the facility.

e. They must require that the individual's plan be revised whenever necessary.

3. The development, review, and revision of the individual abuse plans may be part of a patient's and resident's care plan.

E. Internal reporting system.

1. The facility shall set up a mechanism to ensure that all suspected cases of abuse or neglect are reported to an individual mandated to report under Minnesota Statutes, section 626.557 and are promptly investigated by facility staff.

2. The facility shall designate the person responsible for reviewing and investigating all suspected cases of abuse or neglect. However, if the person responsible for the review and investigation is suspected of committing abuse or neglect, the facility shall authorize another to conduct the review and investigation.

3. The facility shall designate the person responsible for reporting all cases of abuse or neglect to the appropriate authority in accordance with Minnesota Statutes, section 626.557.

4. The facility shall keep written records of reviews and investigations of suspected cases of abuse or neglect. These records must include a summary of the findings, persons involved, persons interviewed or notified, conclusions, and actions taken. A copy of the completed record shall be forwarded to the Office of Health Facility Complaints of the Department of Health.

5. When a patient or resident is admitted, the facility shall explain its internal reporting mechanism to the individual or to the people legally responsible for the patient or resident. It shall also inform these people that anyone may report suspected cases of abuse and neglect directly to outside agencies.

F. Notification. The facility shall inform its staff of the mandatory reporting requirements and of the responsibilities imposed on the facility staff by Minnesota Statutes, section 626.557. It shall also inform its staff that anyone may report suspected cases of abuse or neglect directly to the appropriate outside agencies. An explanation of the facility's abuse prevention plan, individual abuse prevention plans, and internal reporting mechanism must be part of the facility's orientation and inservice training programs.

Rules as Proposed

7 MCAR § 1.044 Definitions, general provisions, issuance of licenses.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

For the purpose of these regulations: A state license is required for any facility where nursing, personal or custodial care is provided for five or more aged or infirm persons who are not acutely ill.

A.-S. [Unchanged.]

T. Procedure for licensing of boarding care homes. ~~Any person acting individually or jointly with other persons who proposes to build, own, establish or operate a nursing home or a boarding care home shall submit a preliminary information questionnaire as furnished by the department at the time of initial contact as specified under MHD 44(s).~~ Application for a license to establish or maintain ~~such a facility~~ a boarding care home shall be made in writing and submitted on forms provided by the department. If the applicant is a corporation, the officers shall furnish the department a copy of the articles of incorporation and bylaws and any amendments thereto as they occur. In addition, out-of-state corporations shall furnish the department with a copy of the certificate of authority to do business in Minnesota. No license shall be issued until all final inspections and clearances pertinent to applicable laws and regulations have been complied with.

U.-X. [Unchanged.]

Y. Procedures for licensing nursing homes.

1. Initial licensure. For the purpose of Y., initial licensure applies to newly constructed facilities designed to operate as nursing homes and to other facilities not already licensed as nursing homes. Applicants for initial licensure shall complete the license application form supplied by the department. Applications for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula established in 7 MCAR § 1.701, Exhibit I.

To be issued a license, the applicant must file with the department a copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.

If the applicant for licensure is a corporation, it shall submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. Applicants must submit these documents in order to be issued licenses. The department shall issue the initial license as of the date the department determines that the nursing home is in compliance with Minnesota Statutes, sections 144A.02 to 144A.16 and 7 MCAR §§ 1.044-1.072, unless the applicant requests a later date.

2. Renewed licenses. An applicant for license renewal shall complete the license application form supplied by the department. Applications must be submitted at least 60 days before the expiration of the current license and must be accompanied by a license fee based upon the formula established in 7 MCAR § 1.701, Exhibit I.

If the licensee is a corporation, it shall submit any amendments to its articles of incorporation or bylaws along with the renewal application.

If the application specifies a different licensed capacity from that provided on the current license, the licensee shall follow the procedures relating to license amendments specified in 6. If the changes are not approved before the current license expires, the renewed license will be issued without reflecting the requested changes.

3. Transfer of interests; notice. A controlling person, as defined in Minnesota Statutes, section 144A.01, subdivision 4, who transfers an interest in the nursing home shall notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests, and the date of the transfer.

4. Transfer of interest; expiration of license. A transfer of interest will result in the expiration of the nursing home's license under the following conditions:

a. if the transferred interest exceeds ten percent of the total interest in the licensee, in the structure in which the

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nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses an interest in excess of 50 percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or

b. if the transferred interest exceeds 50 percent of the total interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.

Under either of these conditions, the nursing home license expires 90 days after the date of the transfer or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90-day period, the licensee shall apply for a renewed license in accordance with section 2. The department shall notify the licensee by certified mail at least 60 days before the license expires.

5. Transfer of interest; relicensure. A controlling person may apply for relicensure by submitting the license application form at least 45 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula established in 7 MCAR § 1.701, Exhibit I. If the applicant for relicensure is a corporation, it shall submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. The department shall relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with Minnesota Statutes, sections 144A.02 to 144A.16 and 1.-12., unless the applicant requests a later time. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

6. Amendment to the license. If the nursing home requests changes in its licensed capacity or in the level of care provided, it shall submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula established in 7 MCAR § 1.701, Exhibit I. The amendment to a license is effective for the remainder of the nursing home's licensure year.

7. Issuing conditions or limitations on the license. The department may attach to the license any conditions or limitations it considers necessary to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and well-being of the nursing home's residents. A condition or limitation may be attached when a license is first issued, when it is renewed, or during the course of the licensure year.

8. Reasons for conditions or limitations. In deciding to condition or limit a license the department shall consider at least the following:

a. the nature and number of correction orders or penalty assessments issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

b. the commission of illegal acts by any of the controlling persons or employees of the nursing home;

c. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

d. the condition of the physical plant or physical environment; or

e. the existence of any outstanding variances or waivers.

9. Types of conditions or limitations. The types of conditions or limitations that may be attached to the license include at least the following:

a. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;

b. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or

c. imposition of schedules for the completion of specified activities.

10. Statement of conditions or limitations. The department shall notify the applicant or licensee, in writing, of its decision to issue a conditional or limited license. The department shall inform the applicant or licensee of the reasons for the condition or limitation and of the right to appeal. Unless otherwise specified, any condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists. The licensee shall notify the department when the reasons for the condition or limitation no longer exists. If the department determines that the condition or limitation is no longer required, it shall be removed from the license.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully

stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license in an accessible and visible location.

11. Effect of a condition or limitation. A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with Minnesota Statutes, section 144A.11.

If the department issues a correction order, it shall determine the time allowed for correction. That time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. If the department assesses a fine, the fine is $250. The fine accrues on a daily basis in accordance with Minnesota Statutes, section 144A.10.

12. Appeal procedure. The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceeding under the Administrative Procedure Act, Minnesota Statutes, sections 15.0418 to 15.0426, within 15 days after receiving the notification described in 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional or limited license should not be issued. Except in a proceeding challenging the decision to condition or limit a current or renewal license, the applicant has the burden of proving that an unrestricted license should be issued.

7 MCAR § 1.046 General policies.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

(a)-(f) [See relettering instruction.]

~~(g)~~ G. ~~Animals or birds. No animals, birds, turtles or reptiles shall be housed in a nursing home or in a boarding care home~~ Pet animals. Pet animals may be kept on the premises of a nursing home or boarding care home only in accordance with the provisions of 7 MCAR § 1.042.

(h)-(k) [See relettering instruction.]

L. [Unchanged.]

M. Compliance with the Vulnerable Adult Abuse Reporting Act. Each nursing home or boarding care home shall comply with the provisions of Minnesota Statutes, section 626.557 and the provisions of 7 MCAR § 1.043.

7 MCAR § 1.048 Records and reports.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

A. Patient or resident care record. An individual chart shall be kept on each patient and resident admitted to the home. All entries shall be made with a pen and signed by the person making the entry. Accurate, complete and legible records for each patient or resident from the time of admission to the time of discharge or death shall be kept current and shall be maintained in a chart holder at the nurses' or attendants' station.

1.-7. [Unchanged.]

8. Record of patients' and residents' funds.

a.-b. [Unchanged.]

c. Personal fund accounts.

(1)-(6) [Unchanged.]

(7) Upon the request of the patient or resident or the patient's or resident's legal guardian or conservator or representative payee, the nursing home or boarding care home shall return all or any part of the patient's or resident's funds given to the nursing home or boarding care home for safekeeping, including interest, if any, accrued from deposits. The nursing home or boarding care home shall develop a policy specifying the period of time during which funds can be withdrawn ~~on each day of the week~~. This policy must ensure that the ability to withdraw funds is provided in accordance with the needs of the residents. The nursing home or boarding care home shall notify patients and residents of the time periods during which funds can be withdrawn. The nursing home or boarding care home shall establish a procedure allowing residents to obtain funds to

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meet unanticipated needs on days when withdrawal periods are not scheduled. Funds kept outside of the facility shall be returned within five business days.

d.-e. [Unchanged.]

9.-11. [Unchanged.]

7 MCAR § 1.053 Medications.

THE FOLLOWING APPLY TO NURSING HOMES ONLY:

(a)-(e) [See relettering instruction.]

F. [Unchanged.]

(g)-(m) [See relettering instruction.]

N. Administration of medications by unlicensed personnel. THE FOLLOWING APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES: Unlicensed nursing personnel who administer medications in a nursing home or boarding care home must have completed a medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution. The nursing home or boarding care home shall keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

7 MCAR § 1.057 Schedule of fines for uncorrected deficiencies.

~~(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)~~

A. Nursing homes and boarding care homes. A $50 penalty assessment will be issued under the provisions of Minnesota Statutes, section 144.653, subdivision 6 ~~(1974)~~ for noncompliance with correction orders relating to the sections of these regulations listed below:

~~MHD 44 (o); (p); (q); (s); (t); (u)~~ 1. 7 MCAR § 1.044 O., P., Q., S., T., U.;

2. MHD 45 (a)(3); (f); (h)(1); (h)(2)(aa); (h)(2)(ff); (h)(4);

3. MHD 46 (a); (b); (j); (k);

4. MHD 47 (c); (e);

5. MHD 48 (a)(4); (a)(5); (a)(6); (a)(7); (a)(9); (a)(11);

6. MHD 50 (a); (j);

7. MHD 52 (a)(2); (a)(3); (a)(4); (a)(9); (d); (e);

8. MHD 54 (a)(7); (b)(5);

9. MHD 55 (i);

10. MHD 56 (f); (h); and

11. MHD 64 (a)(22); (b)(15).

B. Nursing homes and boarding care homes. A $250 penalty assessment will be issued under the provisions of Minnesota Statutes, section 144.653, subdivision 6 ~~(1974)~~ for noncompliance with correction orders relating to all other sections of these regulations not specifically enumerated in ~~section~~ A. ~~or~~, C., or D.

C. Boarding care homes.

1. A $50 penalty assessment will be issued to a boarding care home under the provisions of Minnesota Statutes, section 144.653, subdivision 6 for noncompliance with correction orders relating to the following rules:

a. 7 MCAR § 1.042 B.1.;

b. 7 MCAR § 1.042 B.2.;

c. 7 MCAR § 1.042 B.3.;

d. 7 MCAR § 1.042 C.1.;

e. 7 MCAR § 1.042 C.5.;

f. 7 MCAR § 1.043 C.2.a.;

g. 7 MCAR § 1.043 D.3.;

h. 7 MCAR § 1.048 A.4.;

i. 7 MCAR § 1.048 A.8.a.;

j. 7 MCAR § 1.048 A.8.b.(2);

k. 7 MCAR § 1.048 A.8.c.(3);

l. 7 MCAR § 1.048 A.8.c.(5);

m. 7 MCAR § 1.048 A.8.c.(6);

n. 7 MCAR § 1.048 A.8.d.;

o. 7 MCAR § 1.048 A.8.e.;

p. 7 MCAR § 1.052 A.1.b.; and

q. 7 MCAR § 1.055 U.1.b.(1)(c).

2. A $250 penalty assessment will be issued to a boarding care home under the provisions of Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR § 1.042 C.2.;

b. 7 MCAR § 1.042 C.3.;

c. 7 MCAR § 1.042 C.4.;

d. 7 MCAR § 1.042 C.6.;

e. 7 MCAR § 1.042 C.7.;

f. 7 MCAR § 1.042 C.8.;

g. 7 MCAR § 1.042 C.9.;

h. 7 MCAR § 1.043 B.;

i. 7 MCAR § 1.043 C.1.;

j. 7 MCAR § 1.043 C.2.b.;

k. 7 MCAR § 1.043 C.2.c.;

l. 7 MCAR § 1.043 C.2.d.;

m. 7 MCAR § 1.043 C.2.e.;

n. 7 MCAR § 1.043 D.1.;

o. 7 MCAR § 1.043 D.2.a.;

p. 7 MCAR § 1.043 D.2.b.;

q. 7 MCAR § 1.043 D.2.c.;

r. 7 MCAR § 1.043 D.2.d.;

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s. 7 MCAR § 1.043 D.2.e.;

t. 7 MCAR § 1.043 E.1.;

u. 7 MCAR § 1.043 E.2.;

v. 7 MCAR § 1.043 E.3.;

w. 7 MCAR § 1.043 E.4.;

x. 7 MCAR § 1.043 E.5.; and

y. 7 MCAR § 1.043 F.

~~C.~~ D. Nursing homes.

1. A $50 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR § 1.042 B.1.;

b. 7 MCAR § 1.042 B.2.;

c. 7 MCAR § 1.042 B.3.;

d. 7 MCAR § 1.042 C.1.;

e. 7 MCAR § 1.042 C.5.;

f. 7 MCAR § 1.043 C.2.a.;

g. 7 MCAR § 1.043 D.3.;

h. 7 MCAR § 1.044 Y.2.;

i. 7 MCAR § 1.044 Y.3.;

~~a.~~ j. 7 MCAR § 1.048 A.4.;

~~b.~~ k. 7 MCAR § 1.048 A.8.a.;

~~c.~~ l. 7 MCAR § 1.048 A.8.b.(2);

~~d.~~ m. 7 MCAR § 1.048 A.8.c.(3);

~~e.~~ n. 7 MCAR § 1.048 A.8.c.(5);

~~f.~~ n. 7 MCAR § 1.048 A.8.c.(6);

~~g.~~ o. 7 MCAR § 1.048 A.8.d.;

~~h.~~ p. 7 MCAR § 1.048 A.8.e.;

~~i.~~ q. 7 MCAR § 1.052 A.1.b.;

~~j.~~ r. 7 MCAR § 1.053 F.2.;

~~k.~~ s. 7 MCAR § 1.055 U.1.b.(1)(c); and

~~l.~~ t. 7 MCAR § 1.064 A.3.f.(1)(a).

2. A $150 penalty assessment will be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR § 1.042 C.2.;

b. 7 MCAR § 1.042 C.3.;

c. 7 MCAR § 1.042 C.4.;

d. 7 MCAR § 1.042 C.6.;

e. 7 MCAR § 1.042 C.7.;

f. 7 MCAR § 1.042 C.8.;

g. 7 MCAR § 1.042 C.9.;

h. 7 MCAR § 1.043 B.;

i. 7 MCAR § 1.043 C.1.;

j. 7 MCAR § 1.043 C.2.b.;

k. 7 MCAR § 1.043 C.2.c.;

l. 7 MCAR § 1.043 C.2.d.;

m. 7 MCAR § 1.043 C.2.e.;

n. 7 MCAR § 1.043 D.1.;

o. 7 MCAR § 1.043 D.2.a.;

p. 7 MCAR § 1.043 D.2.b.;

q. 7 MCAR § 1.043 D.2.c.;

r. 7 MCAR § 1.043 D.2.d.;

s. 7 MCAR § 1.043 D.2.e.;

t. 7 MCAR § 1.043 E.1.;

u. 7 MCAR § 1.043 E.2.;

v. 7 MCAR § 1.043 E.3.;

w. 7 MCAR § 1.043 E.4.;

x. 7 MCAR § 1.043 E.5.;

y. 7 MCAR § 1.043 F.;

~~a.~~ z. 7 MCAR § 1.046 L.2.b.;

~~b.~~ aa. 7 MCAR § 1.046 L.2.c.;

~~c.~~ bb. 7 MCAR § 1.046 L.2.d.;

~~d.~~ cc. 7 MCAR § 1.046 L.2.e.;

~~e.~~ dd. 7 MCAR § 1.046 L.2.f.;

~~f.~~ ee. 7 MCAR § 1.046 L.3.;

~~g.~~ ff. 7 MCAR § 1.047 A.;

~~h.~~ gg. 7 MCAR § 1.048 A.8.b. (1);

~~i.~~ hh. 7 MCAR § 1.048 A.8.c. (1);

~~j.~~ ii. 7 MCAR § 1.048 A.8.c. (2);

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~~k.~~ jj. 7 MCAR § 1.048 A.8.c. (4) (a);

~~l.~~ kk. 7 MCAR § 1.048 A.8.c. (4) (b);

~~m.~~ ll. 7 MCAR § 1.048 A.8.c. (4) (c);

~~n.~~ mm. 7 MCAR § 1.048 A.8.c. (7);

nn. 7 MCAR § 1.053 N.;

~~o.~~ oo. 7 MCAR § 1.055 U.1.b. (1) (a);

~~p.~~ pp. 7 MCAR § 1.055 U.1.b. (1) (b);

~~q.~~ qq. 7 MCAR § 1.055 U.1.b. (2) (a);

~~r.~~ rr. 7 MCAR § 1.055 U.1.b. (2) (b);

~~s.~~ ss. 7 MCAR § 1.055 U.1.b. (2) (c);

~~t.~~ tt. 7 MCAR § 1.055 U.1.b. (2) (d);

~~u.~~ uu. 7 MCAR § 1.055 U.1.b. (2) (e);

~~v.~~ vv. 7 MCAR § 1.055 U.1.b. (2) (f);

~~w.~~ ww. 7 MCAR § 1.055 U.1.b. (2) (g);

~~x.~~ xx. 7 MCAR § 1.055 U.1.b. (2) (h); and

~~y.~~ yy. 7 MCAR § 1.055 U.1.b. (2) (i).

3. A $250 penalty assessment shall be assessed on a daily basis to a nursing home for noncompliance with correction orders relating to the following rules:

a. 7 MCAR § 1.046 L.2.a.; and

b. 7 MCAR § 1.064 A.3.f. (1) (b).

7 MCAR § 1.058 Allowable time periods for correction.

A. Allowable time periods for correction. The allowable time periods for complying with a correction order issued by the department shall be as follows:

1. 7 MCAR § 1.044

a. Y.2.	14 days
b. Y.3.	14 days

1.-4. [See renumbering instruction.]

~~5.~~ 6. 7 MCAR § 1.053

a. F.2.	30 days
b. N.	14 days

6.-7. [See renumbering instruction.]

9. 7 MCAR § 1.042

a. B.1.	30 days
b. B.2.	30 days
c. B.3.	30 days
d. C.1.	30 days
e. C.2.	30 days
f. C.3.	14 days
g. C.4.	14 days
h. C.5.	14 days
i. C.6.	14 days
j. C.7.	14 days

k. C.8.	14 days
l. C.9.	14 days
10. 7 MCAR § 1.043	
a. B.	14 days
b. C.1.	14 days
c. C.2.a.	14 days
d. C.2.b.	14 days
e. C.2.c.	14 days
f. C.2.d.	14 days
g. C.2.e.	14 days
h. D.1.	14 days
i. D.2.a.	14 days
j. D.2.b.	14 days
k. D.2.c.	14 days
l. D.2.d.	14 days
m. D.2.e.	14 days
n. D.3.	14 days
o. E.1.	14 days
p. E.2.	14 days
q. E.3.	14 days
r. E.4.	14 days
s. E.5.	14 days
t. F.	14 days

B. [Unchanged.]

C. Decreasing the time allowed for correction. The department shall allow the nursing home the period of time for correction specified in section A. unless the department determines that a violation must be corrected within a shorter time because noncompliance will jeopardize the health, treatment, safety, comfort, or well-being of the nursing home residents. If the department orders a shorter period of time for correction, that time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. No provision in 7 MCAR § 1.058 prevents the department from ordering immediate correction of a deficiency if necessary to protect the health, treatment, safety, comfort, and well-being of the nursing home residents.

7 MCAR § 1.377 General provisions.

A. [Unchanged.]

B. Applicability to employers.

1.-4. [Unchanged.]

5. An employer which is preempted from complying with Minnesota Statutes, section 62E.17, subdivision 1, as a result of the Employee Retirement Income Security Act, United States Code, title 29, sections 1144 (a) and 1144 (b) (2) (B) is not an "applicable employer" for the purposes of 7 MCAR §§ 1.366 to 1.380.

C.-F. [Unchanged.]

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7 MCAR § 1.392 General provisions.

A.-B. [Unchanged.]

(c)-(1) [See relettering instruction.]

M. Pet animals. Pet animals may be kept on the premises of a supervised living facility only in accordance with the provisions of 7 MCAR § 1.042.

N. Compliance with the Vulnerable Adult Abuse Reporting Act. Each supervised living facility shall comply with the provisions of Minnesota Statutes, section 626.557 and the provisions of 11 MCAR § 1.043.

O. Schedule of fines for uncorrected deficiencies.

1. A $50 penalty assessment will be issued to a supervised living facility under Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the rules listed below:

a. 7 MCAR § 1.042 B.1.;

b. 7 MCAR § 1.042 B.2.;

c. 7 MCAR § 1.042 B.3.;

d. 7 MCAR § 1.042 C.1.;

e. 7 MCAR § 1.042 C.5.;

f. 7 MCAR § 1.043 C.2.a.; and

g. 7 MCAR § 1.043 D.3.

2. A $250 penalty assessment will be issued to a supervised living facility under Minnesota Statutes, section 144.653, subdivision 6, for noncompliance with correction orders relating to the following rules:

a. 7 MCAR § 1.042 C.2.;

b. 7 MCAR § 1.042 C.3.;

c. 7 MCAR § 1.042 C.4.;

d. 7 MCAR § 1.042 C.6.;

e. 7 MCAR § 1.042 C.7.;

f. 7 MCAR § 1.042 C.8.;

g. 7 MCAR § 1.042 C.9.;

h. 7 MCAR § 1.043 B.;

i. 7 MCAR § 1.043 C.1.;

j. 7 MCAR § 1.043 C.2.b.;

k. 7 MCAR § 1.043 C.2.c.;

l. 7 MCAR § 1.043 C.2.d.;

m. 7 MCAR § 1.043 C.2.e.;

n. 7 MCAR § 1.043 D.1.;

o. 7 MCAR § 1.043 D.2.a.;

p. 7 MCAR § 1.043 D.2.b.;

q. 7 MCAR § 1.043 D.2.c.;

r. 7 MCAR § 1.043 D.2.d.;

s. 7 MCAR § 1.043 D.2.e.;

t. 7 MCAR § 1.043 E.1.;

u. 7 MCAR § 1.043 E.2.;

v. 7 MCAR § 1.043 E.3.;

w. 7 MCAR § 1.043 E.4.;

x. 7 MCAR § 1.043 E.5.; and

y. 7 MCAR § 1.043 F.

Relettering and renumbering. Reletter 7 MCAR § 1.046 (a)-(f) as A.-F.; (h)-(k) as H.-K.; 7 MCAR § 1.053 (a)-(e) as A.-E.; (g)-(m) as G.-M.; and 7 MCAR § 1.392 (c)-(l) as C.-L. Renumber 7 MCAR § 1.058 A.1.-4. as A.2.-5.; and A.6.-7. as A.7.-8.

Department of Public Safety
Fire Marshal Division

Proposed Rules Governing Amendments to the Uniform Fire Code

Notice of Hearing

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes § 15.0412, subd. 4, in the above entitled matter, in Room G-18 Transportation Building, St. Paul, MN 55155, on October 28, 1982, commencing at 9:00 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statement or arguments. Statements or briefs may be submitted without appearing at the hearing. Written materials may be submitted by mail to Richard C. Luis, State Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, MN 55415, either before the hearing or within five working days after the close of the hearing (the hearing examiner may extend the written comment period up to 20 calendar days at the hearing). The proposed rules are subject to change as a result of the rule hearing process. The department therefore strongly urges those who may potentially be affected by the substance of the proposed rules to participate in the hearing process.

The commissioner proposes to adopt rules relating to the following matters:

The proposed rules update the existing *Minnesota Uniform Fire Code* to the 1982 edition of the *Uniform Fire Code, Western Fire Chiefs*, and update the *National Fire Codes* to the 1982 edition. The proposed rules were published in the August 9, 1982 *State Register* pages 166-173 (7 S.R. 166) as part of a Notice of Intent to Adopt Rules without a Public Hearing. More than 7 requests for public hearing were received by the agency prior to the close of the comment period. The proposed rules as published are amendments to the *Uniform Fire Code* to make it a state code and to correspond to state law, the *State Building Code* and to customary state and local jurisdictions and relationships.

The department's authority to promulgate the proposed rule is contained in Minn. Stat. § 299F.011.

One free copy of the proposed rules is available and may be obtained by writing to the Department of Public Safety (*Uniform Fire Code* Rules), 211 Transportation Building, St. Paul, MN 55155. Additional copies will be available at the door on the date of the hearing.

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 notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or 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 Department of Public Safety and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing, justifying both the need for and reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7.

Please be advised that Minnesota Statutes, ch. 10A, requires each lobbyist to register with the State Ethical Practices

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

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

REPORT OF THE
CHIEF HEARING EXAMINER

The above-entitled matter came on for review by the Chief Hearing Examiner pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d (1980) which provides in part:

> If the [hearing examiner's] report contains a finding that the proposed rule is substantially different from that which was proposed at the public hearing, or that the agency has not met the requirements of section 15.0412, subdivisions 4 through 4f, it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, he shall advise the agency of actions which will correct the defects, and the agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected. If the chief hearing examiner determines that the need for and reasonableness of the rule has not been established pursuant to subdivision 4, clause (c), and if the agency does not elect to follow the suggested actions of the hearing examiner to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not proceed to adopt the rule until it has received and considered the advice of the commission; provided, that the agency is not required to delay adoption longer than 30 days after the commission's receipt of the agency's submission.

Based upon a review of the record in this proceeding, the Chief Hearing Examiner hereby approves the Report of the Hearing Examiner in all respects and specifically as to any finding of substantial change or of failure to comply with Minn. Stat. § 15.0412, subd. 4-4f (1980) or of failure to establish need for and reasonableness of the proposed rule.

In order to correct the defects enumerated by the Hearing Examiner, the agency shall either take the action recommended by the Hearing Examiner or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Hearing Examiner, it shall, prior to submitting the rules to the Attorney General for review, submit to the Chief Hearing Examiner a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Hearing Examiner will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Hearing Examiner, it shall also, prior to submitting the rule to the Attorney General, submit the complete record to the Chief Hearing Examiner for a review in regard to substantial changes.

Dated: January 3, 1983.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

HLTH-83-005-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Jon L. Lunde, duly appointed Hearing Examiner, at 9:00 a.m. on Thursday, October 28, 1982, in Room 83 of the State Office Building, 435 Park Street, Saint Paul, Minnesota, pursuant to a Notice of Hearing dated September 13, 1982. This was a rulemaking proceeding conducted pursuant to Minn. Stat. Ch. 15 to determine whether the Commissioner of Health (hereinafter the "Commissioner") has authority to adopt the rules proposed and whether they are necessary and reasonable and may be adopted. The Chief Hearing Examiner extended the due date for this Report to December 23, 1982, under Minn. Stat. § 15.0412, subd. 4d.

John A. Breviu, Special Assistant Attorney General, 136 University Park Plaza Building, 2829 University Avenue Southeast, Minneapolis, Minnesota 55414, appeared as counsel for the Minnesota Department of Health. Also appearing on behalf of the Department were H. Michael Tripple, Assistant Section Chief of the Health Systems Division, and Kent Peterson, Chief of the Planning and Resources Control Section. Approximately 75 persons attended the hearing and 59 of them signed the hearing register. The hearing continued throughout the morning and until all persons present had an opportunity to be heard. After the hearing, but before the expiration of the 20-day comment period authorized by the Hearing Examiner, 15 timely public comments and one comment from the Department of Health (hereinafter the "Department") were filed with the Office of Administrative Hearings.

The Commissioner of Health must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d (1980), this Report has been submitted to the Chief Hearing Examiner for his approval. If the Chief Hearing Examiner approves the findings of this Report, he will

advise the Commissioner of actions which will correct the defects and the Commissioner may not adopt the rule until the Chief Hearing Examiner determines that the defects have been corrected. However, in those instances where the Chief Hearing Examiner identifies defects which relate to the issues of need or reasonableness, the Commissioner may either adopt the Hearing Examiner's recommendations to cure the defects or, in the alternative, if the Commissioner does not elect to adopt the recommendations, he may submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment. Provisions relating to this submission to the Commission may be found in Minn. Stat. § 15.0412, subd. 4d (1980).

If the Commissioner elects to adopt the recommendations of the Hearing Examiner and makes no other changes and the Chief Hearing Examiner determines that the defects have been corrected, then the Commissioner shall submit the rule to the Attorney General for review of form and legality. If the Commissioner makes changes in the rule other than those recommended by the Hearing Examiner, then Commissioner shall submit the rule, with the complete record, to the Chief Hearing Examiner for a review of the changes before adopting it and submitting it to the Attorney General. Procedures relating to this subsequent review by the Chief Hearing Examiner are set forth in Minn. Stat. § 15.0412, subd. 4e (1980).

When the Commissioner submits the rule to the Attorney General, he shall give notice on the day of submission to all persons who requested that they be informed of the submission to the Attorney General.

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

FINDINGS OF FACT

Procedural Requirements

1. On August 25, 1982, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(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.

On September 14, 1982, the Department filed a copy of the proposed rules which was approved by the Revisor of Statutes.

2. On Monday, September 27, 1982, more than 30 days prior to hearing, the Notice of Hearing and a copy of the proposed rules were published at 7 State Register 407-421.

3. On September 16, 1982, more than 30 days prior to hearing, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

4. On October 1, 1982, the Department filed the following documents:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.

(d) The Statement of Need and Reasonableness.
(e) The names of Departmental personnel to represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.
(g) An Affidavit of Additional Notice.
(h) All materials received following a Notice of Intent to Solicit Outside Opinion published at 5 State Register 1621-1622, on Monday, April 13, 1981, and at 1 State Register 741-742, on Monday, November 8, 1976.
(i) A Statement of Anticipated Costs and Benefits pursuant to Minn. Stat. §§ 15.0412, subd. 7, 15.065 and 144A.29 and Laws of Minnesota, 1981, Ch. 360, Art. 1, § 14.

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

5. The record remained open through November 17, 1982, 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.

Introduction

6. The rules proposed by the Department in this proceeding pertain to a variety of subject matters. New rules have been proposed covering pets in health care facilities and the prevention of the abuse and neglect of vulnerable adults in facilities licensed by the Department. In addition, the Department has proposed amendments to rules pertaining exclusively to nursing homes and boarding care homes. The amendments change licensing requirements and change some general policies pertaining to facility records and the administration of medications. The amendments also amend the schedule of fines for uncorrected deficiences in nursing homes and boarding care homes and the time periods allowed for the corrections of deficiencies in those facilities. In addition, general requirements for supervised living facilities have been amended and a penalty schedule for some of the uncorrected deficiencies of such facilities has been proposed.

The Department's statutory authority to adopt the rules proposed as well as the need and reasonableness of the various rules will be considered separately throughout this Report under the applicable subject matter. If a particular section of the proposed rules is not specifically discussed herein, it has been concluded by the Hearing Examiner that such a discussion is not necessary due to the lack of any sufficiently substantive public comments. As to those sections, the Hearing Examiner has concluded that their need and reasonableness has been established by an affirmative presentation of facts in the Department's Statement of Need and Reasonableness. The Department's proposed rules relating to the dual option provisions of health maintenance organizations is one example of those rules covered by this Finding.

7 MCAR § 1.042 - Pet Animals

7. 7 MCAR § 1.042 is a new rule. It implements Minn. Stat. §§ 144.573 and 144A.30 (1980), which provide that certain health care facilities may keep pet animals subject to rules of the Department. In drafting its rules, the Department has recognized that pets have therapeutic and social benefits for the patients and residents of health care facilities. See, Statement of Need

and Reasonbleness (SONR), p. 11. The rule is intended to balance these benefits with the health and sanitary problems pets may create and to give a considerable degree of discretion to facilities in shaping appropriate policies.

8. The Commissioner has general rulemaking authority under Minn. Stat. §§ 144.56 and 144A.08 to regulate the health, treatment, safety, comfort and well-being of patients and residents, among other things. Minn. Stat. § 144.573 (1980), which applies to hospitals, supervised living facilities and boarding care homes, reads as follows:

> Facilities for the institutional care of human beings licensed under Minnesota Statutes 1978, section 144.50, may keep pet animals on the premises subject to reasonable rules as to the care, type and maintenance of the pet.

Minn. Stat. § 144A.30 (1980), which is applicable to nursing homes, reads as follows:

> Nursing homes may keep pet animals on the premises subject to reasonable rules as to the care, type and maintenance of the pet.

These statutory provisions do not authorize the Department to adopt any reasonable rules relating to pets, but limit the Commissioner and general rulemaking authority over pets to rules which relate to their "care, type and maintenance". The Department argued that it has additional rulemaking authority in this area under the general grant of rulemaking authority contained in Minn. Stat. §§ 144.56 and 144A.08 (1980). That argument is not persuasive. If the Department adopts rules which do not relate to the care, type and maintenance of pets it has exceeded its express authority. If the Department is permitted to infer greater authority in this area from other general delegations of rulemaking power, the specific limitations on that rulemaking authority in the statutes cited would be meaningless and their plain language ignored. It is a cardinal principle of statutory construction that where a subject is covered generally by one statute and specifically by another that the specific provision controls. Minn. Stat. § 645.26, subd. 1; Wolner v. State, 213 Minn. 96, 5 N.W.2d 67 (1942). In this case, therefore, it is concluded that the rules the Department is authorized to adopt under Minn. Stat. §§ 144.56 and 144A.08 can relate only to the care, type and maintenance of pets. The Legislature has determined that facilities may keep pets on their premises and the cited provisions must be construed as a limitation on the Department's authority to regulate or curtail a facility's decision to keep pets under those statutes. Any other conclusion would render the language of the statutes meaningless and of no effect contrary to Minn. Stat. § 645.17 (2) (1980). Therefore, while the rules are adopted pursuant to the rulemaking authority in §§ 144.56 and 144A.08, that authority is limited by the language cited.

9. There is little difficulty in determining the scope of the Department's authority to regulate the care of pets and the types of pets a facility may allow. However, since the word "maintenance" is a close kin of the word "care" and frequently connotes the repair or upkeep of something, the scope of the Department's authority to regulate the maintenance of pets is not as clearly apparent. The word "maintenance" is defined in the American

Heritage Dictionary of the Engligh Language, 787 (New College Ed. 1981), in part as follows:

> The action of continuing, carrying on, preserving, or retaining something . . . the state of being continued, carried on, preserved or retained. . . .

The word "maintenance" is said to be a large term whose meaning depends upon the circumstances of its use. 54 C.J.S., p. 904. Since the statutes also authorize the Department to regulate the care of pets, the word "maintenance" must be broader than the word "care" and include the very act of keeping or retaining pets on facility premises. As so construed, the Department's authority to regulate the keeping of pets on facility premises is quite broad. The rules proposed by the Department all pertain to the care, type and retention or keeping of pets on facility premises and it is concluded, therefore, that the rules are within the scope of authority delegated to it.

10. 7 MCAR § 1.042 A. This part contains the only definition proposed by the Department for this section of the rules. The rule clarifies the law authorizing the keeping of pet animals by identifying the particular facilities licensed under the statutes listed in the authorizing legislation. For that reason, it is a necessary and reasonable exercise of the Department's rulemaking authority. However, in its present form the definition is inconsistent with current law insofar as it purports to cover all facilities licensed under Minn. Stat. § 144.50 and not merely those licensed under the 1978 edition of that statute as Minn. Stat. § 144.573 does. The Minnesota Revisor's Manual With Styles and Forms, pp. 17-18 (1982 Supp.) makes it clear that an internal statutory reference to another section of the law should include the date of the edition of the law referred to only if it is intended to tie the reference permanently to the specific edition of the statute or section referred to.

Under Minn. Stat. § 645.31, subd. 2, an incorporation by reference adopts future changes in the statute referred to unless there is a clear legislative intention to the contrary. In view of the proper method for referring to other statutes, it is concluded that the reference to the 1978 edition of the law in Section 144.573 clearly manifests an intention to tie the incorporation to the specific edition cited and not to incorporate subsequent changes to that law. Therefore, it is concluded that the definition proposed is inconsistent with Section 144.573. This constitutes a substantive violation of law for purposes of Minn. Stat. § 5.0412, subd. 4c.

To correct this defect and to clarify the scope of the rule, it is recommended that the definition be changed to read as follows:

> A. Definition. As used in 7 MCAR § 1.042, "health care facility" means a hospital, boarding care home or supervised living facility licensed under Minnesota Statutes 1978, section 144.50 or nursing homes licensed under Minnesota Statutes, sections 144A.01 to 144A.17.

Such an amendment accomplishes two things. It more clearly identifies the licensing statutes applicable to the particular facilities governed by the rule and is consistent with the language of Minn. Stat. § 144.573, which refers specifically to Minnesota Statutes 1978.

- no charge - P.I.

it seems this discussion is relevant only until 1982 statutes were published. Minn. Stat § 144.537 (1982) contains NO ref. to any specific year

- See Fig F3

11. Neither the applicable statutes nor the proposed rules define the word "pet" and there is scant legal authority on its scope. The American Heritage Dictionary of the English Language, supra, 980, defines a pet as "an animal kept for amusement or companionship"; Webster's New Collegiate Dictionary, 857 (1975), defines it as "a domestic animal kept for pleasure rather than utility; and the Britannica World Language Dictionary, 944 (Vol. 1, 1959), defines it as a "tame, fondled animal".

Minn. Stat. § 15.0411, subd. 3, as construed by the Attorney General's Office, requires agencies to make the laws and rules enforced or administered by them specific. The rule in its present form does not contain the requisite specificity as is evinced by the differing definitions applicable to the word "pet". This constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c (1980). To correct this defect, the agency must adopt a definition of the word or clarify its meaning in the body of the rules.

not adopted - see FOF 4

At the hearing on this matter a Departmental spokesman stated that fish in aquariums are considered to be pets for purposes of the rule. In its post-hearing comments the Department indicated that such fish are not covered. This issue needs clarification. Adoption of a definition will, at the very least, give facilities notice of the meaning of the word and could save them the time and expense of having additional consultations with veterinarians and the need to amend their policies at some later date.

see addition to .042C, p. 1

12. Section 1.042 B.1. As originally proposed, this part required each facility to adopt a written policy specifying whether or not pet animals can be kept on its premises. Consistent with the applicable legislation, the rule recognized that facilities have the option to allow or disallow pets on their premises. The requirement that the applicable facilities adopt a written policy is also within the Department's authority to reasonably regulate the "maintenance" of pets. At the hearing, Ruth Stryker-Gordon and Dr. R. K. Anderson of the University of Minnesota School of Public Health suggested that the rule be amended to distinguish pets residing on facility premises and pets who merely visit a particular facility. The Department has adopted their suggestion and now proposes to amend Part B.1. to read as follows:

> 1. Every health care facility shall establish a written policy specifying whether or not pet animals will be allowed on the facility's premises.

Pets may create a health or safety risk to a facility's patients or residents. They may carry a disease or be of such a size or temperament that they pose a threat to patients, especially the elderly, who can, for example, be more easily knocked down by a rambunctious dog, and who because of their age are particularly susceptible to, or more seriously threatened by, common health hazards. In fact, it would appear that strange dogs, for example, who visit a facility may be a greater threat to the residents' health and safety than dogs who live on the premises because the temperament and habits of visiting animals are not known and their health may not be monitored, as would be the case with resident pets under the proposed rules. Consequently, it is concluded that an amendment recognizing the hazards posed by visiting animals is necessary and reasonable and consistent with the Department's authority to

protect the health of residents or patients and to regulate the maintenance of pets. Although the word "maintenance" suggests some kind of permanency, the repeated or even occasional visiting by pets is as much keeping of pets as is having them, and it would be wholly inconsistent with the purposes of the law to ignore the risks posed by visiting animals. Since the amendment does not go to a new subject area of significant substantive effect, make a major, substantive change not raised by the original Notice, effect a class of persons not represented at the hearing or result in a rule fundamentally different from that noticed for hearing, it is concluded that the amendment does not constitute a substantial change for purposes of 9 MCAR § 2.111.

See new language, p. 2

13. Section 1.042 B.2. Consistent with the amendments to Part B.1., the Department proposes to amend this section to make it applicable to all pets allowed on the premises and not merely those kept there. The amendment restructures the language retained and transfers some language to Part C. The changes to Part B.2. are necessary and reasonable for the reasons previously stated and do not constitute substantial changes for purposes of 9 MCAR § 2.111. As amended, Part B.2. will read as follows:

OK/p. 2, 3

> If pet animals are allowed on the premises, the policy must specify whether or not individual patients or residents will be permitted to keep pets.

14. Section 1.042 B.3. This part of the rule provides that the policy decision made to allow or disallow pets on the facility's premises must be developed only after consultation with facility staff and with patients or residents, "as appropriate". This is a necessary and reasonable requirement because it fosters the adoption of a workable policy and considers the input of the residents, patients and staff, who are directly affected by any policy ultimately adopted. In addition, it implies that residents or patients who are suffering from a physical or mental disability that makes effective consultation impractical need not be consulted. Stryker-Gordon and Dr. Anderson both suggested that facilities be required to consult with veterinarians and physicians before determining whether pets will be allowed on the premises and kept by individual patients or residents. The Department concluded that expert consultation at this stage, while not prohibited, is not necessary and would be inconsistent with its decision to adopt minimal standards in this area. The decision as to when expert input in the development of facility policy on pets should be required is one that is particularly within the Department's discretion, and its decision not to require expert input in determining whether or not pet animals will be allowed on the premises or kept by individual residents and patients is clearly within the scope of the Department's reasonable discretion.

The Department noted that facilities may show compliance with this rule by retaining minutes of staff meetings and resident council meetings or by retaining copies of questionnaires circulated to patients and residents. Of course, other evidence of compliance could be used.

15. The Legal Advocacy for Older Americans Project noted that human beings can form strong attachments to their pets, and that in order to protect their rights, facilities should be required to provide a procedure for the removal of pets in the written policy developed. The Department did not

specifically respond to this comment and it is urged to do so. The Department's failure to include a provision requiring the adoption of procedures for the removal of pet animals is not arbitrary or unreasonable and it can leave such decisions to the facilities. However, a strong argument can be made that a formal procedure for pet removal be adopted in order to protect the patients and the residents. If such a procedure is required by the Department, it would be a necessary and reasonable exercise of its discretion and within the scope of its delegated authority to regulate the maintenance of pets.

not adopted see FoF 6

16. Section 1.042 C. As originally proposed, this part contained nine conditions governing the keeping of pets. At the hearing, there were a substantial number of adverse comments concerning the conditions proposed. Many of the comments were directed at the lack of flexibility inherent in the conditions. In response to public comments made, the Department has rewritten Part C. to read as follows:

with added language p. 1

C. Conditions. If pet animals are allowed on the premises, the following requirements must be met:

1. Written policies and procedures must be developed and implemented which specify the conditions for allowing pet animals on the premises.

2. The policies and procedures must:

a. describe the types of pet animals allowed on the facility's premises. This policy must be developed in consultation with a veterinarian and a physician.

b. describe the procedures for maintaining and monitoring the health and behavior of animals kept on the facility's premises. These procedures must be in accordance with a veterinarian's recommendations. A copy of these recommendations must be maintained in the facility; and

c. identify those areas in the facility, in addition to those areas described in 6., below, where pet animals shall not be permitted.

3. Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets within or on the premises of the facility.

4. The health care facility shall ensure that no pet jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents or staff.

5. A facility employee shall be designated, in writing, as geing responsible for monitoring or providing the care to all pet animals and for ensuring the cleanliness and maintenance of facilities used to house pets. This rule does not preclude residents, patients or other individuals from providing care to pet animals.

6. Except for guide dogs accompanying a blind or deaf individual, pet animals shall not be permitted in kitchen areas, in medication storage and administration areas or in clean or sterile supply storage areas.

with add. language p. 3

The need and reasonablenes of Part C., as amended, is affirmatively established by the facts and policy decisions contained in the SONR and the comments submitted during the hearing process. None of the amendments result in a rule fundamentally different from that originally proposed, go to new

subject areas of significant substantive effect, effect a class of persons not represented at the hearing or make a major substantive change not raised by the original Notice of Hearing, and they do not, therefore, constitute substantial changes for purposes of 9 MCAR § 2.111. It is clear that there is still some difference of opinion as to the precise language that should be used and the scope of the requirements the Department's rules should contain. Reasonable minds can differ in these areas. However, the Department's decisions are nonetheless necessary and reasonable and may be adopted as proposed. Agency rules do not have to incorporate the most reasonable or the best method for regulating particular areas but need only be one reasonable way of doing so. Where there are different ways of dealing with a particular subject, an agency is free to choose the manner it believes is most appropriate in the exercise of its sound discretion. When it does so, its decisions must be upheld even though there may be other ways of dealing with the subject matter or other equally reasonable or more reasonable ways of doing so. Federal Security Administrator v. Quaker Oats Co., 318 U.S. 218, 87 L.Ed. 224, 63 S.Ct. 589 (1943).

17. Section 1.042 C.6. Except for guide dogs, pet animals are not permitted in kitchen areas, medication storage and administration areas or in clean or sterile supply storage areas. This requirement was questioned by several commentators, especially as it would apply to the kitchens of supervised living facilities, or group homes for mentally retarded individuals, which house less than 15 residents and frequently less than six. These group homes are often single-family dwellings, and are structured to provide a home-like atmosphere. In such homes, it is difficult to close off kitchen areas from the rest of the home. It is clear that the presence of pets in kitchen areas may be a health hazard, especially where the pets have access to counter tops and could contaminate foods or food preparation surfaces. However, kitchen areas are commonly used to isolate pet dogs during toilet training and other periods to prevent the soiling of carpeting. In a typical home, pets normally have access to the kitchen. For this reason, and since the residents do not suffer from the same health hazards as the elderly, the Department is urged to consider excepting group homes from the prohibition of pets in kitchen areas or consider excepting such homes for particular pets such as dogs which would not have access to counter tops or direct access to food storage areas or food preparation surfaces. The rule ultimately adopted whether it allows such an exception or not is necessary and reasonable, however, and within the scope of the Department's expertise and reasonable discretion.

exception adopted p.3

18. Section 1.042 C.4. This part of the rule requires that health care facilities ensure that no pet jeopardizes the health, safety, comfort, treatment or well-being of patients, residents or staff. It was noted by several persons that any pet may, in a given situation, jeopardize the health, comfort or well-being of patients or residents to some extent. Since some jeopardy is inherent in the keeping of pets, the Department should consider adding the word "substantial" immediately after the word "pet". Apparently, the rule is not designed to prohibit any annoyance or every threat no matter

Not added see fgF 9

how sporadic or de minimus its nature might be. Therefore, it should be amended to make it clear that such jeopardies are not covered.

19. Several commentators objected to the Department's choice of particular words in this rule. Objections were raised to the use of the words "must" and "shall" and it was suggested that the word "shall" be used exclusively in the context of mandatory obligations. As noted by the Department, Minn. Stat. § 15.0412, subd. 2a, places upon the Revisor of Statutes the duty to approve rules as to form. The stylistic choices made by the Revisor under that statute are not subject to review by the Hearing Examiner, whose duty is only to determine whether a mandatory obligation in a particular place is appropriate. The Revisor has published the Minnesota Revisor's Manual With Styles and Forms (1982 Supp.), which requires the use of both "shall" and "must" when dealing with mandatory obligations. The Department's rules have been approved by the Revisor under those standards and are necessary and reasonable as proposed.

Likewise, objections were raised to the Department's use of the words "assure" and "ensure". Based on the American Heritage Dictionary of the English Language, supra, p. 80, which is utilized by the Revisor of Statutes, the Department's use of the word "assure" and ensure in Section 1.042 is proper and consistent with the usage note found therein. Consequently, it is concluded that the rules incorporating those words are necessary and reasonable as proposed.

7 MCAR § 1.043 - Preventing the Abuse or Neglect of Vulnerable Adults

20. The purpose of 7 MCAR § 1.043 is to implement the provisions of Minn. Stat. § 626.557, the so-called Vulnerable Adults Act. The Act pertains to adults who because of physical or mental disability or dependency on institutional services are particularly vulnerable to abuse or neglect. In order to protect such adults, the law requires the reporting and investigation of suspected abuse and neglect and the adoption of abuse prevention plans. The Act provides in part as follows:

> Subd. 14. Abuse prevention plans. (a) Each facility shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan as are promulgated by the licensing agency.
>
> (b) Each facility shall develop an individual abuse prevention plan for each vulnerable adult residing there. Facilities designated in subdivision 2, clause (b)(2) shall develop plans for any vulnerable adults receiving services from them. The plan shall contain an individualized assessment of the person's susceptibility to abuse, and a statement of the specific measures to be taken to minimize the risk of abuse to that person. For the purposes of this clause, the term "abuse" includes self-abuse.
>
> Subd. 15. Internal reporting of abuse and neglect. Each facility shall establish and enforce an ongoing written procedure in compliance with the licensing agencies' rules for insuring that all cases of suspected abuse or neglect are reported promptly to a person required by this section to report abuse and neglect and are promptly investigated.

.043 is deleted in its entirety see FoFV

21. The need for the rule proposed and the Department's authority to adopt it are contained in Minn. Stat. § 626.557, subd. 16(b), which provides as follows:

> Licensing agencies shall as soon as possible promulgate rules necessary to implement the requirements of subdivisions 11, 12, 13, 14, 15 and 16, clause (a).

The definition of a "licensing agency" in Section 626.557, subd. 2(g)(1) includes the Commissioner of Health. These statutory provisions delegate to the Commissioner the authority to adopt the rules proposed and except as discussed later in this Report, the rules are within the scope of that delegation. Furthermore, since the Commissioner is required to adopt rules, the general need for the rules proposed has been established.

22. 7 MCAR § 1.043 A. This part contains the definition of the word "facility" which is the only definition the Department proposes for this rule. The definition originally proposed merely incorporated the statutory definition. In response to criticisms of the the statutory definition and evidence of confusion on the part of several commentators, the Department proposes to amend the definition to read as follows:

> As used in 7 MCAR § 1.043, "facility" means a hospital or other entity required to be licensed pursuant to sections 144.50 to 144.58; a nursing home required to be licensed pursuant to section 144A.02, or any other entity required to be certified for participation in Titles XVIII or XIX of the Social Security Act, 42 U.S.C. 1935, et seq.

This is a necessary and reasonable improvement in the specificity of the definition and does not constitute a substantial change for purposes of 9 MCAR § 2.111. However, questions could still arise in the minds of individuals who are interested in the coverage of the proposed rule as to what facilities are in fact licensed under the existing statutes. Therefore, it is recommended that the Department list those facilities which are in fact licensed under the various statutes referred to, as was done in Section 1.042 A., and adopt a definition along the lines of the following:

> As used in 7 MCAR § 1.043, "facility" means a hospital, boarding care home or supervised living facility licensed under Minnesota Statutes, sections 144.50 to 144.58; a nursing home licensed under Minnesota Statutes, section 144A.02, or any other entity required to be certified for participation in Titles XVIII or XIX of the Social Security Act, 42 U.S.C. 1395, et seq. such as . . . .

Restructuring the rule in this manner will list those types of facilities which are licensed under the various statutory provisions and examples of those certified under the Social Security Act could be listed. It is unclear under what provisions home health agencies are licensed and some confusion was expressed by them concerning their obligation to comply with the rule. The Department should clarify that in the definition even though it is not required to do so.

The Minnesota Association of Health Care Facilities (MAHCF) suggested that the Department adopt a definition of the word "immediately" found in Minn. Stat. § 626.557, subd. 3. The Department has properly refused to adopt a definition of that word because it has no rulemaking authority with respect to

subdivision 3 of the Act. The word "immediate" is frequently construed with less strictness than the literal meaning requires and has been held to mean as soon as is reasonably practicable under all the circumstances or within a reasonable period of time under all the circumstances. See, e.g., 42 C.J.S., Immediate, p. 388; Ekberg v. Belfer, 222 Minn. 450, 24 N.W.2d 851, 852-53 (1946).

23. 7 MCAR § 1.043 B. This part requires that facilities comply with all the provisions of Minn. Stat. § 626.557. The Minnesota Association of Health Care Facilities (MAHCF) objected to the need for this rule arguing that the Department already has statutory authority to issue correction orders for violations of Minn. Stat. § 626.557 under Minn. Stat. § 144A.10, subd. 4. In its SONR, the Department stated that this provision is necessary to make it clear to the applicable facilities that they must comply with the provisions of the Vulnerable Adults Act.

Under Minn. Stat. § 626.557, subd. 16(b), the Department has authority to promulgate rules implementing subdivisions 11 through 16, clause (a) of that law. Under Minn. Stat. § 144A.10, subd. 4 (Laws of Minnesota, 1982, Ch. 633, § 5), it is authorized to issue correction orders to nursing homes which are not in compliance with Section "626.557 or the rules promulgated thereunder". This language makes it clear that in the case of nursing homes enforcement of both the statute and any rules adopted thereunder are enforceable by the Department. Therefore, as to nursing homes, this part correctly states the law and is within the scope of the Department's rulemaking authority. However, as to the other facilities covered by this part, the rule exceeds the scope of the Department's rulemaking authority for purposes of Minn. Stat. § 15.0412, subd. 1. As to those other facilities, the Department cited no statute authorizing the issuance of correction orders for violations of Section 626.557 or the rules promulgated thereunder. Its authority over nursing homes in that respect does not exist for the other facilities. The only correction order authority it has over the other facilities is contained in Section 144.653. It authorizes correction orders only for the violation of rules promulgated pursuant to Section 144.56. Hence, this part is unauthorized and constitutes a substantive violation of law under Minn. Stat. § 15.0412, subd. 4c. To correct this defect, it must be rewritten to properly limit its scope.

24. Section 1.043 C.1. This part requires facilities who admit patients "on an in-patient basis" to develop written plans to "prevent" abuse and to "identify and remedy" conditions making patients susceptible to abuse. MAHCF and others objected to the language limiting the written plan requirement to the facilities proposed and to the language that requires abuse to be prevented or remedied. In response to these comments, the Department proposes to amend this part to read as follows:

> 1. Every facility which admits vulnerable adults on an inpatient basis shall develop and implement an ongoing written abuse prevention plan. The plan must be designed to identify and minimize conditions in the population, environment, and physical plant that make patients or residents susceptible to abuse.

Minn. Stat. § 626.557, subd. 14(a) provides in part as follows:

(a) Each facility shall establish and enforce an ongoing abuse prevention plan.

Under Section 626.557, subd. 2, the definition of the word "facility" means all facilities defined therein including those who do not admit patients on an inpatient basis "unless the specific context indicates otherwise". The Department justified its exclusion of some facilities from the plan requirement stating as follows (SONR, p. 30):

* * *

> The rule [Part C.1.] would not apply to home health agencies or other facilities which do not admit individuals on an inpatient basis. The Department believes that it would not be reasonable or appropriate to require the development of a facility abuse plan in these facilities since residents or patients are not admitted. The statute and the rule is intended to apply to those facilities which provide services to individuals on an inpatient basis since it requires an assessment of the population, physical plant and environment. Facilities which do not admit individuals would not have a facility population nor would there be a concern over environmental and physical plant factors since an individual's contact with these facilities would be limited.

In reply, MAHCF stated (p. 4, Nov. 15, 1982 Comment) as follows:

> MAHCF asserts that the definition of "facility" in Minn. Stat. § 626.557, subd. 2(a), clearly encompasses all facilities. The purpose of the statute is to protect adults who may be vulnerable to abuse or neglect and to require the reporting of abuse or neglect. The potential for abuse occurring or going unreported is as great, if not greater, in a non-residential setting than in a more closely supervised residential setting. A home health agency clearly has a "population" it serves, even though it does not ordinarily come to the actual offices of the agency and nothing in the statute supports the Department's view that a "population" must be residential. An abuse prevention plan to monitor the activities of employees sent to clients' homes is at least as necessary as any other type of abuse prevention plan. The department took an unnecessary and unreasonably restricted view of the purposes of the statute in drafting this particular provision.
>
> In direct contrast to the provision enabling this particular portion of the rule is the subsequent subdivision, Minn. Stat. § 626.557, subd. 14(b), which provides:
>
> > Each facility shall develop an individual abuse prevention plan for each vulnerable adult residing there.
>
> [Emphasis supplied.] The statute there carefully limits the need for an individual abuse prevention plan to those facilities which provide residential services. If the Legislature had intended to similarly limit the development of facility abuse prevention plans, it could easily have done so.

Generally, rulemaking proceedings under Chapter 15 are concerned with what the agency is proposing and the authority for its actions, and are not an inquiry into those things it is not proposing to do. In this case, it is argued that the Department has stopped short of regulating all which it is authorized and required to regulate. In exercising its rulemaking authority, an agency is not required to exercise the full scope of its authority at one time, nor is it precluded from adopting its regulations on a piecemeal basis. For that reason, its failure to adopt rules for the abuse prevention plans of all agencies is not necessarily prohibited. However, where an agency does not

fully implement statutory requirements because of an erroneous interpretation of the applicable statutory language, instead of an intention to fully implement it at a later date, its decision is properly subject to scrutiny in a rulemaking proceeding if the defect has a significant substantive effect. The reason for this is that an agency may not alter statutory terms or defeat the spirit and purpose of a statute. 73 C.J.S. Public Administrative Bodies and Procedure, § 103, p. 422-423; 1 Cooper, State Administrative Law, p. 254-257 (1965).

In Part C.1. the Department has excluded facilities that do not admit patients or residents on an "inpatient basis". The governing statute, Minn. Stat. § 626.557, subd. 14(a) is ambiguous because the facilities sought to be excluded are facilities as defined in the law. However, the definition is only applicable unless the context indicates a different result. The adminstrative construction of an ambiguous statute is entitled to a considerable degree of deference. Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969); Buhs v. State, Depart. of Public Welfare, 306 N.W.2d 127 (Minn. 1981). The party attacking an agency's interpretation of a rule should present clear and convincing evidence that it is ultra vires. In this case, no facts were presented which show that facilities which do not have inpatients can feasibly adopt meaningful abuse prevention plans and the record simply does not show that the Department's construction is clearly erroneous. Consequently, it is concluded that its construction is entitled to deference and that its construction of the law is correct.

To clarify this part, however, the Department should add the same language suggested for the last sentence of Part D.1. (Finding 29, infra.).

25. Several parties criticized Part C.1. on the grounds that it fails to require facilities to consider the patients' or residents' susceptibility to neglect in their abuse prevention plans. Since the plain language of subdivision 14 does not require consideration of neglect, it is concluded that the rule as proposed is necessary and reasonable and should be adopted. The Vulnerable Adults Act does deal with abuse and neglect, but the Legislature has treated them differently in the Act. In some sections, it addresses both abuse and neglect in the statutory requirements. For example, in subdivision 15, written procedures for reporting abuse and neglect are required. However, neglect is not included in subdivision 14. The language of that subdivision is clear and unequivocal. Where the language of a law is clear and unambiguous, the law must be applied according to its terms and cannot be construed to mean something other than what it says. Even if it would be reasonable to include neglect, it is not within the Department's authority to add requirements to the law which the Legislature intentionally omits or inadvertently overlooks.

One commentator suggested that the word "environment" be defined in the rules. The Hearing Examiner agrees that the rule is sufficiently specific without a definition of that term and that the Department's decision not to define it is within the scope of its reasonable discretion.

26. Section 1.043 C.2. This part requires that the abuse prevention plan be developed by an interdisciplinary committee selected by the administrator of the facility. The Association of Residences for the Retarded in Minnesota

(ARRM), and others, noted that the term "interdisciplinary committee" used in the rule is not defined and is ambiguous. To avoid any confusion, the Department now proposes to amend Part C.2. by adding the following sentence to it:

> The committee must consist of at least two individuals who represent different service areas provided in the facility.

As noted in the Department's SONR (p. 31), input from the various service areas such as nursing, social services, rehabilitation, administration, or housekeeping and maintenance is expected in order that individuals with different perspectives and areas of expertise work together to form a comprehensive plan. As amended, this part is necessary and reasonable. The amendment does not constitute a substantial change under 9 MCAR § 2.111.

ARRM and the Minnesota Board on Aging (MBA) noted that DPW rules pertaining to vulnerable adults require adoption of the abuse prevention plan by the applicable governing body (12 MCAR § 2.010 C.1.). ARRM is concerned that this conflict between DPW rules and the Department's proposed rules will require a facility to develop two plans: one by an interdisciplinary committee and another by the governing body. The Hearing Examiner finds no inconsistencies between the rules adopted by DPW and those now proposed by the Department of Health. DPW rules require a program's governing body to establish and enforce an abuse prevention plan. The rules do not require that the plan be "developed" by the governing body. Indeed, statements of DPW spokesmen regarding the requirement that the governing body develop and review the plan show that it was not DPW's intent to preclude the delegation of that responsibility to specific employees. See, Report of the Hearing Examiner, DPW-82-047-JL, p. 16-17, Aug. 3, 1982. The rules in this case require that the plan be developed by an interdisciplinary committee but do not preclude implementation and enforcement of that plan by the governing body. It appears, therefore, that for those facilities that are governed by DPW rules as well as those proposed here, one plan will suffice. DPW rules allow an interdisciplinary committee to develop the plan finally authorized and implemented. Consequently, it is concluded that the provisions of Part C.2.a. are necessary and reasonable as proposed.

27. Section 1.043 C.2.b. This part requires that the abuse prevention plan assess the population, environment and physical plant of the facility. These are the same factors specified in Section 626.557, subd. 14(a). The components of the population, physical plant and environment the plan "must" assess are described in the rule. These components are all related to the population, environment and physical plant. MAHCF objected to the language providing that "the assessment must address such areas as the following . . ." because it implies that a facility may be found in violation of the rule and be issued a correction order for unlisted factors. In the Department's post-hearing comments (pp. 17-18), the Department stated that the quoted language is not mandatory but only illustrative of the types of factors a facility might properly consider and that the factors listed are neither inclusive nor exclusive.

The use of the word "must" has been reserved for mandatory obligations in rulemaking proceedings under Chapter 15. Use of that word here, where no

mandatory obligation is intended is misleading and unreasonable. This constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c (1980). To correct this defect, the word "must" can be replaced with the word "should" which normally means "ought to", in order to clearly create a directory rather than a mandatory obligation. See, Minnesota Revisor's Manual With Styles and Forms, p. 34 (1982 Supp.). In the alternative, the Department may retain the word "must", but only if those components all facilities are required to consider are specified and other components deleted along with the words "areas such as".

28. Section 1.043 C.2.c. This part requires that the abuse prevention plan contain the facility's plan to minimize the risk of abuse. The facility's plan must specify the actions to be taken and establish a schedule for taking those actions. In response to public comments, the Department proposes to amend this part to make it clear that the plan is to be designed to "minimize" the risks of abuse and not to "alleviate" them. As amended, this part will read as follows:

> c. It must include a written plan to correct or minimize the conditions identified by the assessment that make patients and residents susceptible to abuse.

Use of the word "minimize" is consistent with the provisions of Section 626.557, subd. 14(a). As amended, this part is necessary and reasonable and the amendment proposed does not constitute a substantial change for purposes of 9 MCAR § 2.111.

Although Section 626.557, subd. 14(a) requires that the plan state specific measures to be taken to minimize the risk of abuse, both MAHCF and AARM expressed concern about the costs of implementing these corrective measures and questioned whether they would be reimbursed for them under DPW rules. AARM suggested that the rule not be adopted until DPW authorizes reimbursement under 12 MCAR § 2.049, which pertains to allowable nursing home costs. Current law requires that the measures to be taken to minimize the risks of abuse be enforced. Enforcement connotes implementation of the measures proposed. The Department is not authorized to adopt a rule suspending that provision or delaying its implementation. Consequently, it is concluded that the language proposed is necessary, reasonable and consistent with existing legislative directives.

29. Section 1.043 D.1. This part requires the facilities that admit vulnerable adults on an inpatient basis to establish written policies and procedures governing the development of individual abuse prevention plans for those vulnerable adults. AARM and MAHCF both argued that the Department has no authority to require written policies and procedures governing the development of individual abuse prevention plans because they are not specifically mandated by law. The Hearing Examiner is persuaded that there is ample statutory authority for the requirement imposed by this part. Under Section 626.557, subd. 16, the Department has authority to promulgate rules necessary to "implement" the requirements of subdivision 14, and it has authority under subdivision 14(a) to impose rules governing the abuse prevention plans facilities are required to establish and enforce. Even though the policies and procedures required by this part are not specifically

required to be a part of the facility's general abuse prevention plan, the requirement is clearly part of an overall plan for minimizing the risk of abuse, and authority for the requirement can be inferred from subdivision 14(a).

In implementing the provisions of subdivision 14, the Department must give practical effect to legal requirements and ensure their fulfillment. In doing this, it is vested with reasonable discretion in adopting those requirements it believes are necessary to fulfill the purposes of the Vulnerable Adults Act. Its decision to require that facilities adopt uniform policies and procedures with respect to the development of individual abuse prevention plans is clearly within the scope of that reasonable discretion. The rule will ensure that the facility has considered some standard and uniform factors it believes should be considered in adopting individual abuse prevention plans and will ensure that the individual abuse prevention plans adopted comply with the policies the facility has adopted.

Several comments were submitted questioning the applicability of this part to home health agencies who are "facilities" as defined in the Vulnerable Adults Act but who do not admit individuals on an inpatient basis. In order to eliminate that confusion and other confusing language, it is recommended that this part be amended to read as follows:

> 1. Every facility which admits vulnerable adults on an inpatient basis shall adopt written policies and procedures governing the development of the individual abuse prevention plans required by Minnesota Statutes, section 626.557, subdivision 14, clause (b). This part does not apply to home health agencies which do not admit individuals on an inpatient basis.

The words "in accordance with" have been replaced with the words "required by" because the words "in accordance with" imply that the cited statute requires the development of written policies and procedures. However, the statute requires only the adoption of individual abuse prevention plans and not written policies and procedures applicable to their development. Such an amendment does not constitute a substantial change for purposes of 9 MCAR § 2.111.

30. Section 1.043 D.2.b. This part requires that the assessment of each patient's or resident's susceptibility to abuse be made by the interdisciplinary team. In order to clarify the meaning of the term "interdisciplinary team", the Department now proposes to add the following sentence to the end of this part:

> . . . The interdisciplinary team must consist of at least two individuals who represent different services involved in the direct care of the resident. [or patient].

The definition of the "interdisciplinary team" under this part is different from the definition under part C.2.a. The latter requires representation by two service areas "provided in the facility" while this part requires the service areas represented be involved in the "direct care of the resident". This difference is apparently an intentional one and is consistent with the general and specific, individualized plans required by law. As amended, this part is necessary and reasonable and the amendment proposed is not a substantial change for purposes of 9 MCAR § 2.111.

31. Section 1.043 D.3. This part permits the development, review and revision of the individual abuse prevention plan to be made part of the individual's care plan. It is intended to give facilities the option to incorporate these plans into the individual's care plan so that no new, independent record is required of those facilities who must adopt individual care plans. Some facilities may not have individual care plans, or may desire to have a separate individual abuse prevention plan. The rule properly gives them discretion in this area. Thus, use of the word "may" is appropriate.

32. Section 1.043 E. This part pertains to the internal reporting of cases of suspected abuse or neglect under Section 626.557, subd. 15. Throughout Part E., the proposed rules refer to "suspected cases of abuse and neglect" rather than to "cases of suspected abuse and neglect". The Department proposes to amend the language using the latter statutory language in place of the former wherever it appears. It also proposes to add the word "suspected" before the words "abuse or neglect" in Part E.3. These are necessary and reasonable amendments and do not constitute substantial changes for purposes of 9 MCAR § 2.111.

33. Section 1.043 E.1. This part requires each facility to set up a "mechanism" to ensure that cases of suspected abuse or neglect are reported to a mandated reporter under Section 626.557 and promptly investigated by the facility's staff. MAHCF objected to use of the word "mechanism" instead of the statutory word "procedure" in this part. A mechanism means "a process or technique for achieving a result" while a procedure means "a particular way of accomplishing something or of acting". Webster's New Collegiate Dictionary, pp. 713 and 917 (1975). These words do have a similar meaning and the Department's choice of the word "mechanism" both here and in Part D.2.a. is not unreasonable. However, the word may be confusing to some persons and there is a definite benefit in not altering statutory language. For that reason, it is recommended that the Department use the word "procedure" rather than the word "mechanism" here and in Part E.5.

More importantly, MAHCF questioned the meaning of this part. Since all facility employees are mandated reporters under the Vulnerable Adults Act, MAHCF questioned the meaning of having them report to another employee who is also a mandated reporter for purposes of the law. One reason for this requirement, which is also contained in the law, is that the person who has knowledge of abuse and neglect in a facility may not be an employee but may be the victim or a fellow patient or resident. These persons are not mandated reporters and their knowledge or suspicion should be reported to a person who is.

Section 626.557 has two separate reporting requirements. Under subdivision 3, certain persons are mandated to immediately report known or reasonably believed cases of abuse or neglect to specified governmental authorities. Under subdivision 15, each facility must have its own separate procedure for the internal reporting of cases of suspected abuse and neglect. It is clear therefore that a facility employee may have a suspicion that abuse or neglect has occurred, but may not know that it has occurred and may not have reasonable cause to believe that it has occurred. Likewise, a victim or fellow patient may have knowledge of abuse or neglect. In such cases, no

report to governmental authorities is required. However, the employee or other person is required to report his knowledge or suspicion internally to an employee who is a mandated reporter and the facility is required to investigate the incident causing the suspicion. After the investigation, if it is determined that there was abuse or neglect, or if there is reasonable cause to believe that abuse or neglect of a vulnerable adult occurred, that mandated reporter is required to immediately report the incident to governmental authorities. Thus, some incidents must be immediately reported to governmental authorities while others must be reported internally for investigation to determine if they should be reported to governmental authorities.

The law does not clearly indicate whether cases of abuse or neglect which have already been reported to governmental authorities must be reported internally. The Department has construed subdivision 15 to mean that all known or suspected cases of abuse and neglect must be internally reported and investigated even if those incidents were previously reported to governmental authorities. This is a reasonable construction of the law and fulfills the Department's obligation to make the provisions of the law specific. If the reporter does not know that abuse or neglect occurred and does not have reasonable cause to believe that it occurred, but has a suspicion that warrants further investigation, that suspicion should be investigated by the facility to determine if there is a reportable incident; that is, facts which show that abuse or neglect occurred or facts which establish reasonable cause to believe that abuse or neglect occurred. Clearly suspected events which were not reported to governmental authorities must be investigated to determine whether the facts of the particular incident rise to the level specified in subdivision 3 and should be then reported to governmental authorities.

It might be questioned whether or not the facility should investigate incidents that were previously reported to governmental authorities under subdivision 3. However, the Department could reasonably conclude that such incidents should also be internally reported and investigated so that the facility is in a position to take immediate action to prevent further abuse of the vulnerable adult involved, to protect other vulnerable adults and to generally be aware of the incident and the forthcoming investigation by other authorities at the earliest possible point in time. Only by requiring such an internal report can the facility become immediately involved in the investigation process and take prompt corrective action.

However, to clarify the confusion expressed by MAHCF and make this part clearer, it is recommended that it be amended to read as follows:

> 1. The facility shall set up a written procedure to ensure that all cases of suspected abuse or neglect are reported to an employee designated by the facility. The procedure must require that all cases of abuse and neglect, including those already reported to governmental authorities, be reported, and must ensure that all reports are promptly investigated by facility staff. The individual designated by the facility to receive internal reports of cases of suspected abuse and neglect must be a mandated reporter under Minnesota Statutes, section 626.557.

This amendment makes it clear that the "mechanism" is a "written procedure" and that all cases of abuse and neglect, even those which have been reported to governmental authorities by the reporter, must also be internally reported. The Department should also consider adding language to this part to make it clear that the internal reporting procedure applies to residents and patients as well as staff members or employees.

It is also recommended that the word "facility" in Part E.2. (p. 4, line 19) be replaced with the words "written procedure" and that the word "authorize" (p. 4, line 23) be replaced with the word "designate".

34. Section 1.043 E.4. This part requires facilities to retain written records of their review and investigation of cases of suspected abuse and neglect, specifies the content of those records and requires that a copy be forwarded to the Office of Health Facility Complaints. The reasonableness of this part and the Department's authority to promulgate it were both addressed by the public. MAHCF questioned the relationship between the reporting requirement in this part and the one contained in subdivisions 3 and 4 of the Vulnerable Adults Act, which require immediate oral reports followed up by written reports containing specified information. It argues that the report required under subdivision 4 is designed to provide the various governmental authorities with sufficient information to begin an investigation and that this part is unnecessary.

The provisions of Minn. Stat. § 626.557, subd. 3 and 4 impose mandatory obligations upon individuals defined in the Act, and do not impose obligations on facilities. Furthermore, the Department does not have any authority to adopt rules implementing those subdivisions. The Department's only authority is to implement subdivision 15, which requires that facilities adopt a written procedure ensuring that cases of suspected abuse and neglect are reported to a mandated reporter and are promptly investigated. With respect to prompt investigations, the Department would be authorized to establish time periods and criteria governing the investigation. Thus, the requirement in Part E.4. that the facility keep written records of its investigations and that the investigators gather specified information is within the scope of the Department's delegated authority for purposes of determining whether or not cases of suspected abuse and neglect are promptly reported and properly investigated. Similarly, the requirement that a copy of the completed records be forwarded to the Office of Health Facility Complaints is within the scope of the Department's delegated authority.

However, Part E.3. is outside the scope of the Department's delegated authority. Subdivision 4 of the Vulnerable Adults Act specifies who is required to report cases of abuse and neglect, and relieves the mandated reporter of his obligation to report any incidents that have been reported by some other person. Under subdivision 15, the Department is not delegated any authority to specify who must report incidents to outside authorities. That is covered by subdivision 4. Furthermore, the proposed rule only confuses a mandated reporter's obligation. A mandated reporter is required to furnish an immediate oral report to the proper governmental authority. If some other facility staff member is obligated to report those incidents, it confuses the mandated reporter's obligation under subdivision 4 and may only serve to

duplicate reports to governmental authorities. This provision constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c, because it is outside the scope of the Department's delegated authority for purposes of Minn. Stat. § 15.0412, subd. 1. To correct this defect, Part E.3. must be deleted.

35. Section 1.043 E.5. On a patient's or resident's admission, this part requires the facility to explain its internal reporting mechanism to residents and patients or to those legally responsible for them. MAHA questioned whether the "explanation" required under this part could be communicated in writing and MAHCF questioned the identity of those persons designated as "legally responsible" for the patient or resident. In response to these questions, the Department proposes to amend this part to read as follows:

> 5. The facility shall post a description of the internal reporting mechanism followed in the facility in an accessible and visible location. Copies of this description shall be available, upon request, to mandated reporters, patients, residents or their representatives.

As amended, the rule is necessary and reasonable and does not constitute a substantial change for purposes of 9 MCAR § 2.111. Again, however, it is recommended that the word "mechanism" be replaced with the word "procedure". While the Department could reasonably require that a copy of the reporting procedure be actually given to patients and residents upon their admission, it has determined that posting will provide adequate notice of the reporting procedures. That determination is within the scope of its reasonable discretion. However, the Department is urged to reconsider this amendment. The patients and residents of a facility are the potential victims of abuse and neglect. They should be clearly notified of their right to report such abuse or neglect, the procedures available and the identity of the person to contact. It is equivocal whether posting gives adequate notice to these potential reporters.

A question was raised whether or not this requirement applies to home health agencies. Since the word "facility" is not always accorded the statutory definition contained in the Vulnerable Adults Act and since questions were raised as to the applicability of this provision to home health agencies, it is suggested that the words "the facility" be replaced with the words "all facilities as defined in Minnesota Statutes, Section 626.557, subdivision 2(a)".

36. Section 1.043 F. This part pertains to the facility's obligation to inform its staff of the provisions of the Vulnerable Adults Act and to explain the facilities' abuse prevention plans and internal reporting procedure as part of its orientation and inservice training programs. MAHCF challenged this part as unauthorized and confusing. The Hearing Examiner is persuaded that the Department has authority under subdivision 15 to establish notification and training requirements in order to ensure that all cases of suspected abuse or neglect are promptly reported to a proper person and that they are promptly investigated. It also has authority under subdivision 14 to establish rules governing the abuse prevention plan generally and under those provisions can adopt notification and orientation requirements for employees to ensure compliance with the liberal purposes of the law.

However, the Department agreed that the language originally proposed may be somewhat confusing and proposes to amend this part by deleting the words "and of the responsibilities", which were superfluous and unnecessary. As amended, this part is necessary and reasonable, and the amendment proposed is not a substantial change under 9 MCAR § 2.111. Again, however, it is recommended that the part be further amended by replacing the word "mechanism" with the word "procedures".

7 MCAR § 1.044 - Licensing of Nursing Homes and Boarding Care Homes

37. The Department is proposing amendments to the licensure provisions which apply to nursing homes and boarding care homes. It has authority to license nursing homes under Minn. Stat. §§ 144A.03 - 144A.06, and authority to license boarding care homes under §§ 144.50 -.56. The effect of the amendments proposed is to license boarding care homes under current rules (Section 1.044 T.) and to adopt new, more comprehensive licensing rules for nursing homes under new rule 7 MCAR § 1.044 Y. In the new rules, some duplication of statutory language occurs. In every case, the duplication of statutory language is crucial to the ability of the persons affected by the rule to comprehend its meaning and effect and such duplication is authorized under Minn. Stat. § 15.0412, subd. 1.

38. MAHCF argued that the rules proposed for nursing homes render current rule Section 1.044 T. unreasonable because it is much less specific than the rules proposed for nursing homes under proposed Part Y. That argument is not persuasive. Both types of facilities are currently licensed under the very general and incomplete provisions of Part T. If the Department believes that more detailed rules for nursing homes should be adopted now, it may do so. It is not required to have the same rules for both types of facilities, especially since each are governed by separate statutory provisions, and it is not required to simultaneously amend the licensing provisions applicable to them. Consequently, it is concluded that the detailed rules now proposed for nursing homes do not render the rules applicable to boarding care homes unreasonable. Conversely, the rules proposed are not unreasonable because less specific rules apply to boarding care homes.

39. Section 1.044 T. This part is being amended to apply to boarding care homes only. Current language relating to nursing homes is being deleted, as is the requirement for a preliminary information questionnaire, which is no longer used by the Department. The amendments proposed to this part, which do not add any additional licensing procedures for boarding care homes, are necessary and reasonable as proposed.

MAHCF suggested that the rule be amended to make it clear that facilities licensed both as nursing homes and boarding care homes need two licenses. This situation is already covered in 7 MCAR § 1.701 and need not be duplicated here.

40. Section 1.044 V. and W. These parts pertain to license fees and expiration dates and are by their very terms applicable to both nursing homes and boarding care homes. The provisions of these parts can be reconciled with the language of Part Y. and no amendments to them are legally required, as was argued by some persons.

41. Section 1.044 Y.1. This part pertains to the initial licensure of nursing homes. It provides that applicants "shall complete the license application form supplied by the Department". MAHCF argued that this part, as well as Part Y.2., do not comply with the unequivocal provisions of Minn. Stat. §§ 144A.03, subd. 1 and 144A.05, which respectively provide in part as follows:

> The commissioner of health by rule shall establish forms and procedures for the processing of nursing home applications.
>
> The commissioner of health by rule shall establish forms and procedures for the processing of license renewals.

The Department does not intend to request any information on their licensing forms that is not specifically required by statute. It concluded that adoption of a license form would merely duplicate statutory language and that the "format" of the forms it proposes to use is not required to be adopted by rule.

According to the American Heritage Dictionary of the English Language, supra, at 516, the word "form" can mean a "Procedure as determined by or governed by regulation or custom" or "A document with blanks for the insertion of details or information". Accord, Webster's New Collegiate Dictionary, supra, at 451. If the first definition of the word is adopted and it is assumed that the word "form" is merely a restatement of the word "procedure", the word would be rendered redundant and unnecessary. Minn. Stat. § 645.16 provides that in the interpretation and construction of laws a law must be construed to give effect to all of its provisions. For that reason, it is concluded that the word "forms" in the cited statutes means the documents the Department requires facilities to use in applying for licenses. Although the reason for the statutory requirement is unclear, the Department may not properly ignore the clear language of the cited statutes even if it believes that they are not necessary and even if compliance is cumbersome.

The Department has not proposed forms for adoption in this proceeding. However, that failure does not invalidate what it does propose to do. As long as the rules the Department has proposed are within the scope of its delegated authority and are necessary and reasonable, its failure to exercise the full extent of its authority and implement all rules it is required by law to adopt does not render what is proposed unreasonable or unauthorized. The failure to adopt these forms simpy does not have any significant substantive or procedural effect and should not invalidate the rules. The Department should adopt forms at the next subsequent rulemaking proceeding or may include its forms in its final version of these rules if authorized by the Chief Hearing Examiner as not constituting a substantial change.[1]

included as .044 Y.13 pages 12-15

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1 Under federal practice the forms used by federal agencies and instructions as to the scope and contents of all papers, reports or examinations are published in the Annual Government Manual as a special edition of the Federal Register. Forms are not currently required to be adopted as rules under the Federal Administrative Procedures Act. The failure to include forms in federal regulations has been subject to criticism. 1 Davis, Administrative Law Treatise, § 6.09, pp. 391-394 (1958).

42. MAHCF argued that the proposed rules should establish time periods for the completion of the Department's review of applications submitted by nursing homes and that the language of Part Y.1. regarding the approval of applications gives the Department unreasonable discretion. The Department has not adopted time limits for its review of applications submitted by nursing homes. Since approval by the Department is contingent upon the facility's compliance with applicable rules and statutes, and is dependent to a large degree upon the applicant's actions and under the applicant's control, it is reasonable not to establish time limits for the completion of agency review. The rules do provide general time periods for the submission of applications for licensure and the time periods established are intended to give the Department sufficient time to review them. There is no evidence in the record that the Department has been dilatory in the past or that application approval has taken an unreasonable period of time, and it is inconsistent with the purposes of the licensing laws to require approval of applications if review is not completed as quickly as the applicants might desire. In many cases, delayed approval could result from circumstances totally outside the Department's control. Therefore, the Department's failure to impose time standards on its own review and approval is not unreasonable.

The last sentence of Part Y.1. (p. 7, lines 10-14) does provide that no initial license will issue until the Department "determines" that the applicant is in compliance with applicable laws and rules. This does not, as argued by MAHCF, give the Department unreasonably broad discretion. The rule is subject to a reasonable interpretation which would not permit the Department to deliberately withhold the license from a qualified facility for arbitrary and capricious reasons. The statute itself (Section 144A.04, subd. 1) provides that no license can be issued until the Commissioner "determines" that the facility is in compliance with applicable law. The rule merely restates this language and is necessary and reasonable as proposed.

43. MAHCF also suggested that Part Y.1. specify that surveys may be undertaken by the Department prior to license approval to determine whether or not a facility is in compliance with applicable laws and rules. In the Department's post-hearing comments (p. 26), it noted that the need for a survey at any particular time is basically an enforcement decision which will depend on the facts of each particular case. For that reason, the Department stated that requiring surveys prior to license approval would not be appropriate. Surveys and inspections are authorized under Minn. Stat. § 144A.10, subd. 2, pertaining to the inspections of nursing homes. That law specifically provides that prior notice need not be given by the Department to facilities subject to such inspections. Since inspections are intended to be conducted without prior notice, it is concluded that the Department's failure to specify when such enforcement steps may be taken is consistent with current law, necessary and reasonable.

44. Section 1.044 Y.2. This part pertains to nursing home license renewal. Unlike Part Y.1., the rule does not state that before a license will issue the Department must determine that it is in compliance with specific statutes and rules. This failure constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c, because it fails to make

specific the criteria governing license renewal approval. To correct this defect, the rule must be amended to cite the statutes and rules containing the qualifications for license approval. Language similar to that contained in the last sentence of Part Y.1. would be permissible.

so amended p. 7

45. Section 1.044 Y.3. This part pertains to transfers of interests in nursing homes under Minn. Stat. § 144A.06. The statute requires that any "controlling person" who transfers a beneficial interest in a nursing home to notify the Commissioner of the transfer "within 14 days of its occurrence". In Part Y.3., the Department has construed this requirement to mean that notice must be submitted "at least 14 days before the date of the transfer" (or occurrence). MAHCF argued that a close reading of the statute indicates a legislative intent to require notice within the 14-day period after the transfer because the law, in describing the notice, states that the notification "shall specify the nature and amount of the transferred interest" rather than stating the nature and amount of the interest to be transferred. MAHCF also argued that it is impossible to give notice of an occurrence until it has occurred. The Department argued that requiring notification before the transfer is necessary to efficiently process applications and for other reasons.

The meaning of the word "within" is discussed in 86 C.J.S., Time, § 13(7). At Page 858, it states:

> In computing a period of time for the doing of an act, the word "within" may fix the terminus ad quem, but not the terminus a quo, as stated infra, n. 1, and in this sense "within" has been variously defined as meaning at any time before; at or before; at the end of; before; before the expiration of; in; not beyond; not exceeding; not less than; not later than; not longer in time than; on or before; prior to.

See also, Webster's New Collegiate Dictionary, supra, p. 1347. The terminus ad quem is the terminating point within which something must be done. Since the word "within" normally means before and since the Department's construction of the statute--that notice is due before the transfer—is consistent with that generally accepted meaning, the rule as proposed is necessary and reasonable and within the scope of the Department's delegated discretion.

As a general rule, an administrative agency's construction of a statute is to be accorded great deference, either where that construction is adopted simultaneously with the enactment of new legislation or where the statutory language is ambiguous. See, e.g., Red Lion Broadcasing Co. v. FCC, 395 U.S. 367, 381 (1969); Buhs v. State, Department of Public Welfare, 306 N.W.2d 127 (Minn. 1981); and 82 C.J.S., Statutes, § 359. The administrative interpretation is given special deference when contemporaneous with a statute's enactment, or nearly so, because the agency is considered to have familiarity with the enactment and the legislative intent.

46. MAHCF also objected to the Department's failure to further define the meaning of the word "controlling person" as used in the statute and objected to the Department's incorporation of the statutory definition without clarification as to its applicability in the context of a publicly held and traded corporation or in the administration of a decedent's estate. MAHCF

also objected to the provisions of Section 1.044 Y.3. and 4. insofar as they refer to the "beneficial interests" mentioned in the statute as mere "interests". Under Minn. Stat. § 15.0412, subd. 2a, the Department is authorized to adopt statutory definitions by reference.

The definition of a controlling person is set forth in Section 144A.01, subd. 4. The statutory definition is lengthy and comprehensive. For that reason, it is concluded that a more specific and elaborate definition is not required as part of the agency's responsibility to make the laws enforced and administered by it specific. Any rules promulgated by an agency cannot answer every factual situation that might arise or resolve all ambiguities. In this case, the incorporation by reference of the statutory definition is reasonable. However, it is good policy to draft rules using the same language contained in the statutes so that unnecessary confusion does not occur. For that reason, it is recommended that the agency use the word "beneficial" when referring to the transfer of interests governed by Section 144A.06. OK p.8

47. Part Y.4. also specifies when the transfer of an interest in a nursing home results in license expiration. It is consistent with and implements the provisions of Section 144A.06. When specified conditions are met, the rule provides (last paragraph) that the nursing home license shall expire 90 days after the date of the transfer involved or 90 days after the date when notice of the transfer is received by the Department, whichever date is later. MAHCF suggested that the last paragraph be clarified to permit the existing license to expire whenever the relicensure has been approved, to permit the expiration of the old license prior to the 90-day period specified in the rule if the new license is approved before the expiration of that 90-day period. The Department did not respond to this suggestion in its post-hearing comments and it is recommended that it specifically consider MAHCF's suggestion and adopt language to cover that situation if it is going to permit expiration of the old license prior to the end of the 90-day period under these circumstances. language added p.8

48. Section 1.044 Y.5. This part pertains to the relicensure of a nursing home when the prior transfer of a beneficial interest has resulted in expiration of the nursing home license under Part Y.4. It implements the provisions of Section 144A.06, subd. 2, but does not mention whether or not temporary waivers to existing uncorrected violations will be granted by the Department. In its post-hearing comments, the Department implies that waivers may be granted in some situations and MAHCF suggested that the temporary waiver provisions in the law be referenced in the rules. general ref added

49. Under Minn. Stat. § 15.0412, subd. 1a, no variance may be granted by an agency unless it has adopted rules setting forth procedures and standards by which variances shall be granted and denied. Therefore, unless some rule is adopted by the Department setting forth the procedures and criteria it will use in granting variances to uncorrected violations during the relicensure process specified in Section 144A.06, subd. 2, no variances under that law could properly be allowed. Therefore, if the Department intends to grant variances under that provision, it must adopt rules as required by Section 15.0412, subd. 1a. It has adopted such rules in 7 MCAR § 1.044 X. It is

recommended that the variances and waivers available under Part X. be referenced in Part Y. as MAHCF suggested.

The Department proposes to amend Part Y.5. by deleting the reference to "1. - 12." in the penultimate sentence and replacing it with the words "7 MCAR §§ 1.044 - 1.072". This is a necessary and reasonable amendment needed to clarify the rule provisions applicable and does not constitute a substantial change for purposes of 9 MCAR § 2.111. OK p.9

50. The last sentence of Part Y.5. provides that the former licensee remains responsible for the operation of the nursing home until it is relicensed. MAHCF objected to this provision as unauthorized and overbroad. Minn. Stat.§ 144A.06, subd. 1, states that after the transfer of certain beneficial interests the current license of the nursing home expires 90 days after that transfer. MAHCF argued that this limits the Department's authority to impose responsibility after the expiration of the 90-day time period. The Department has broad authority under Minn. Stat. § 144A.08, subd. 1 to regulate the operation of nursing homes to assure the health, comfort, safety and well-being of nursing home residents. Whether or not a transferor's license expires within the 90-day period after the transfer of certain beneficial interests, the Department has a continuing responsibility to assure the health and safety of nursing home residents, and the authority to adopt rules fixing responsibility for the proper operation of a nursing home whose license has expired by operation of law . It is not reasonable to interpret the law so as to deprive the Department of its regulatory authority over nursing homes whose licenses expire by operation of law. Consequently, it is concluded that the language in Part Y.5., fixing continued responsibility on the transferor, is necessary and reasonable and within the Department's authority. Moreover, use of the word "responsible" is not unreasonably overbroad and is not substantially different than the accountability discussed in the Department's SONR (p. 75). Of course, there are no doubt some limitations on the scope of that responsibility, but all possible factual scenarios that might develop need not be addressed in the rules, and exceptions to the transferor's responsibility may well have to be determined on a case-by-case basis as they arise or in decisions of the Commissioner after contested case hearings. Bunge Corp. v. Comm'r. of Revenue, 305 N.W.2d 775 (Minn. 1981).

51. Section 1.044 Y.6. This part requires nursing homes to submit an application for an amendment to their license if they propose changes in their licensed capacity or in the level of care provided during their license year. MAHCF stated that there is no direct statutory authorization for such a provision or any mention of license amendments in the law. Although there is no specific statutory requirement for the submission of applications for amendments in these situations, the Department has broad authority under Minn. Stat. §§ 144A.02 and 144A.03 to adopt licensure rules. The authority to issue licenses and require license applications is broad enough to cover the requirements proposed by the Department in this part.

In order to clarify the scope of this part, the Department proposes to delete the phrase "level of care provided" and to replace it with the words "its license classification". The new language makes it clearer that a change OK/9 p.9

in licensure classification would necessitate the initiation of the amendment process. This is a necessary and reasonable amendment and does not constitute a substantial change for purposes of 9 MCAR § 2.111.

However, as MAHCF noted, this part contains no standards or criteria for approval of the license amendment and there is no way to determine when such amendments will be approved or rejected. To that extent, the rule fails to make specific the law enforced or administered by the Department. This constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, the rule must state or refer to the standards that will be used in determining when license amendments will be approved and amended licenses issued, as was done in other licensing rules under Part Y.

OK/p-9

52. Section 1.044 Y.8. This part authorizes the Department to attach conditions and limitations to nursing home licenses which it deems necessary to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort and well-being of the nursing home residents or patients. Minn. Stat. § 144A.02, subd. 1, which pertains to nursing home licensure, provides in part as follows:

> The license may also specify the level or levels of nursing care which the facility is licensed to provide and shall state any conditions or limitations imposed on the facility in accordance with the rules of the commissioner of health.

MAHCF challenged this proposal and the remainder of Part Y. to the extent that it authorizes the use of conditional or limited licenses as a disciplinary measure. MAHCF's position is that to the extent that the conditions or limitations are disciplinary measures, they are beyond the Department's delegated authority, unreasonable and unnecessary. The thrust of MAHCF's argument is that under Minn. Stat. § 144A.11, the Commissioner may institute proceedings to suspend or revoke the nursing home license or to refuse to grant or renew a nursing home license under certain specified conditions. Since that statute does not specifically authorize lesser disciplinary measures, such as the imposition of conditions and limitations upon the continued licensure of a nursing home, MAHCF concludes that it cannot reasonably be inferred that such authority exists under Section 144A.02, subd. 1, cited above. MAHCF also argued that the Department does not need additional enforcement authority because its specific disciplinary authority under Section 144A.11 coupled with its authority to inspect nursing homes, issue correction orders and assess fines under Section 144A.10, is sufficient and that further enforcement authority of a disciplinary nature is unnecessary.

State agencies have only those powers as are given them by the statutes creating them and they must exercise those powers in conformity with the governing statutes. In the exercise of that power, however, the agency has wide discretion and is not wholly confined to the powers specifically conferred. An agency's duties and powers include all those which fairly lie within the scope of the powers specifically conferred or which are essential to the accomplishment of the main purposes for which the agency was created. State v. Hanson, 248 Minn. 87, 78 N.W.2d 679 (1956); Borgelt v. City of

Minneapolis, 271 Minn. 249, 135 N.W.2d 438 (1965). Under this implied powers doctrine, the power to revoke normally includes the lesser power to suspend and the power to revoke or suspend includes the lesser power to condition or limit. MAHCF argues that the Department does not have the power to limit or condition licenses under Section 144A.11. It implies that license revocation cannot be made conditional, that a suspension cannot be made to continue until such time as the facility performs certain acts, and that the Department must suspend or revoke licenses even where mitigating circumstances exist which suggest alternative measures. That argument is not persuasive. In view of the remedial purposes of Chapter 144A and the important public interests involved, such a narrow and inflexible construction of Section 144A.11 should not be accepted. It would deprive the Department of the flexibility needed to effectively administer the law. For that reason, it is concluded that the Department can, after a contested case hearing held to suspend or revoke a nursing home license or to refuse to grant or renew that license, impose lesser sanctions where the record establishes that such lesser sanctions are appropriate or where the Department and the facility mutually resolve the issues and come to some agreement for disposition of the matter without revocation or suspension.

53. Although limitations and conditions may be imposed as a result of a disciplinary proceeding brought under Section 144A.11 to suspend or revoke or refuse to grant or renew a nursing home license, it does not follow that the Department's initial decision to merely limit or condition a license must be instituted under Section 144A.11, and it is concluded that the Department does have authority under Section 144A.02 to impose conditions or limitations on a facility's license even where those conditions and limitations have a disciplinary basis. If the Department has had problems with a particular facility, nothing precludes it from verbally warning that facility that unless certain things are done the Department will revoke or suspend its license. Likewise, if the facility is potentially subject to disciplinary action under Section 144A.11, but the Department decides not to pursue revocation or suspension believing that some condition or limitation would suffice, it can verbally warn the facility that unless certain conditions or limitations are met, it will seek suspension or revocation of that facility's license.

In these rules, the Department is simply formalizing that process under a specific grant of statutory authority. It is concluded that such a procedure is within the scope of the Department's authority under Section 144A.02, subd. 1.

54. However, Part Y.7. as written is unreasonably broad. It fails to make the rule specific contrary to the requirements of Minn. Stat. § 15.0411, subd. 3 because it allows the Department to attach any conditions it considers necessary. This leaves the Department with unfettered discretion in the establishment of the conditions or limitations it may properly adopt. This constitutes a substantive violation of the law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, the language must be made specific. This can be done by amending Part Y.7. to read as follows:

> Issuing conditions or limitations on the license. The **department may attach conditions or limitations on licenses**

under 7 MCAR § 1.044 Y.9. when necessary to assure compliance with the laws and rules governing the operation of nursing homes or to protect the health, treatment, safety, comfort and well being of the nursing home's residents. A condition or limitation may be attached when the license is first issued, when it is renewed, or during the course of the licensure year.

The use of the word "may" in this rule is appropriate in both instances. The Department is not required to impose conditions or limitations. Instead, it may seek license revocation or suspension or refuse to grant or renew a license altogether. Thus, such limitations and conditions cannot be required in any particular case.

The rules do not distinguish between a condition or limitation. A condition is different from a limitation to the extent that a license may be granted on the condition that certain things are done, while a limitation is a restriction upon things that can be done. However, even if there is a difference between these terms, they are sufficiently clear and do not require the adoption of a formal definition.

55. Section 1.044 Y.8. This part states the reasons why conditions or limitations may be imposed, and states the Department "shall consider at least the following" followed by a listing of specific considerations. This language implies that the Department may consider other unspecified factors thereby giving it unfettered discretion in the types of factors it might consider in determining whether or not a condition or limitation should be imposed upon a licensee. The Attorney General has consistently construed Minn. Stat. § 15.0411, subd. 3 to prohibit such delegations of unfettered discretion as a failure to make the law enforced or administered specific. Consequently, it is concluded that the quoted language constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, the Department must delete the words "at least" in the introductory portion of this rule. deleted p.10

Six factors must be considered by the Department under the proposed rules. The factors listed are necessary and reasonable and generally consistent with the factors set forth in Minn. Stat. § 144A.11. However, it is recommended that Part Y.8.b. be amended to read as follows:

The permitting, aiding or abetting of the commission of any illegal act in the nursing home by any of the controlling persons or employees of the nursing home. ✓ OK p.10

It is also recommended that the following additional factor be added to the proposed rule as follows:

f. The number or types of residents the nursing home is able to provide for; ✓ OK p.10

In addition, as MAHCF proposed, the rule must specify the facts the Department must determine exist before a condition or limitation may be imposed. Failure to adopt such criteria fails to make the law specific as required by Minn. Stat. § 15.0411, subd. 3 and is a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, it is recommended that the following or similar language be adopted as an addition to this part: no addition - see F&F 20

2. Before a condition or limitation may be imposed on a nursing home license the department must determine:

a. That the nursing home is unable to properly care for the type or number of patients for which it is licensed;

b. That a condition or limitation is required by an order of the commissioner in a disciplinary proceeding under Minnesota Statutes, section 144A.11;

c. That the nursing home has been granted a variance or temporary waiver requiring the issuance of a conditional or limited license;

d. That the nursing home has committed acts contrary to the provisions of Minnesota Statutes, section 144A.11, subd. 1 which require placing the nursing home license on a probationary or conditional status and which if violated will result in license suspension, revocation or refusal to grant or renew.

56. Section 1.044 Y.9. This part specifies the types of conditions or limitations that may be imposed. Again, the language used indicates that other unspecified conditions or limitations may be imposed at the unfettered discretion of the Department. This also constitutes a violation of Minn. Stat. § 15.0411, subd. 3, as construed by the Attorney General, and constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, the second sentence of this part must be amended to read as follows:

The department may impose shall one or more of the following conditions or limitations:

amended, except for "shall" p. 10.

In addition, this part as currently written is inconsistent with Part Y.8. because the conditions and limitations specified make no mention of the issuance of a conditional (probationary) license for past violations of the law which may not be repeated, or conditions or limitations imposed or agreed to during a proceeding conducted under Minn. Stat. § 144A.11. The rule should be amended to cover those two categories.

Part 9.c. provides that the imposition of schedules for the completion of specified activities may be one of the conditions imposed upon a nursing home. MAHCF challenged the Department's authority to impose schedules for the completion of activities other than those dealt with in its governing statutes or other rules (specifically 7 MCAR § 1.058) and argued that this portion of the rule is unreasonable. The Hearing Examiner is not persuaded that the rule is unauthorized or unreasonable. Time schedules may be imposed by the Department in the granting of a temporary waiver from compliance with one or more standards adopted by it. It can incorporate time periods for compliance in that waiver, and those in turn could be applied to the license issued. There may likely be limits to the Department's authority under this part, but that does not invalidate it.

With respect to Parts Y.7., 8., 9. and 10., it is concluded that the provisions are necessary and reasonable and that it is not feasible at this time to adopt a more precise rule covering all the situations that might arise. Therefore, the general conditions listed are acceptable and sufficiently clear for purposes of the Administrative Procedure Act. Can Mfrs. Institute, Inc. v. State, 289 N.W.2d 416 (Minn. 1979). Moreover, even though the Department has substantial enforcement authority, the Hearing Examiner is not persuaded that these rules are unnecessary for that reason.

The statutes specifically authorize rules which condition or limit licenses and whether or not it has other enforcement authority does not render these rules unnecessary. In fact, the Department has shown that for purposes of alerting facilities to potential suspension or revocation, for purposes of implementing waiver or variance provisions and for other purposes such conditions or limitations may be necessary and should be adopted in order to implement the Department's comprehensive regulatory authority.

57. Section 1.044 Y.11. MAHCF objected to this rule insofar as it stated that the condition or limitation imposed has the force and effect of law. The Hearing Examiner disagrees. Under Minn. Stat. § 15.0413, subd. 1, every rule approved by the Attorney General and filed as required in the Administrative Procedure Act has the force and effect of law five working days after its notice of adoption is published in the State Register. Acts taken pursuant to such rules are legal acts and binding according to their terms.

This part also provides that if a correction order is issued, the time period for correction must be specified in the order and must relate to the nature of the violation and the interests of the residents. MAHCF argued that the failure to specify fixed correction periods is inconsistent with the provisions of Minn. Stat. § 144A.10, subd. 4, which requires the Commissioner to establish "a schedule of allowable time periods for correction of nursing home deficiencies". The word "schedule" is normally defined as a formal list in tabular (table) form. See, e.g., the American Heritage Dictionary of the English Language, supra, p. 1160. The Hearing Examiner is not persuaded that the statute requires the Department to adopt a specific time table for all correction orders or a specific fine for every possible type of noncompliance. Some lumping should be permitted and is consistent with law. In other words, the Department may group similar types of violations together and establish fine schedules and correction periods for the group. It is not required to establish a separate correction period or fine amount for each type of violation within that group. However, the groups must be composed of similar types of violations and reasonably limited in scope to meet the scheduling concept required by the law.

However, in this case, the Department has wholly ignored the statutory scheme for listing the periods for correction and the applicable fines for noncompliance. Instead of scheduling the specific types of violations that might arise, it has lumped all violations together in one comprehensive group. This violates the provisions of Minn. Stat. § 144A.10, subds. 4 and 6, and constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subds. 1 and 4c. To correct this defect, this part should be deleted, or the Department should specify the fines and correction periods applicable to the specific types of violations covered. Those violations which also violate other more specific provisions of the Department's rules must be governed by those specific provisions in derermining the appropriate correction period and fine amount. Reductions in the correction period so established would be permissible under 7 MCAR § 1.058 C.

deleted except for fine amount p.11

58. Section 1.044 Y.12. This part pertains to the appeal procedure applicable to the imposition of conditions or limitations on a nursing home's license. It authorizes a contested case hearing under the Administrative

Procedure Act if the proposed condition or limitation is appealed by the facility within 15 days after receiving notice of its proposed imposition. However, the last sentence of this part is unauthorized. The Department has no statutory authority to allocate the burden of proof among the parties in a contested case proceeding. Therefore, this provision violates Minn. Stat. § 15.0412, subd. 1, and is a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, the last sentence in this part must be deleted.

deleted p. 12

7 MCAR § 1.046 - General Policies

59. Section 1.046 G. This part provides that pet animals can be kept on the premises of nursing homes and boarding care homes only in accordance with 7 MCAR § 1.042. As was previously mentioned, the provisions of Minn. Stat. § 144.56 and § 144A.08, authorize adoption of rules pertaining to the keeping of pet animals as limited by Sections 144.573 and 144A.30. Since pet rules are authorized under Sections 144.56 and 144A.08, the pet rules adopted do become part of the licensing provisions under Sections 144.55, subd. 1 and 144A.04, subd. 3. Consequently, it is determined that this part is authorized, necessary and reasonable as proposed.

60. Section 1.046 M. This part requires that each nursing home or boarding care home comply with the provisions of the Vulnerable Adults Act and the provisions of 7 MCAR § 1.043. This is a necessary and reasonable provision authorized under Minn. Stat. §§ 144.55, subd. 1 and 144A.04, subd. 3.

61. Section 1.048 A.8.c.(7). The Department proposed to amend this section of the personal funds rule in order to modify the requirement relating to the time periods during which residents can withdraw funds from their accounts in a nursing home or boarding care home. The current rule requirese that nursing homes and boarding care homes specify a period of time during which funds can be withdrawn on each day of the week. The rule caused problems for nursing homes, especially during weekends, and the Department issued many waivers from its provisions. However, the amendment originally proposed to this part was subject to a great deal of criticism because it implied that nursing homes would continue to be required to provide 24-hour access to funds. As a result of that criticism, the Department proposes to amend the language originally proposed to read as follows:

> This policy must ensure that the ability to withdraw funds is provided in accordance with the needs of the residents. This policy must also specify whether or not the nursing home or boarding care home will establish a procedure allowing patients or residents to obtain funds to meet unanticipated needs on days when withdrawal periods are not scheduled. The nursing home or boarding care home shall notify patients and residents of the policy governing the withdrawal of funds. Funds kept outside of the facility shall be returned within five business days.

The purpose of this change is to eliminate the provision requiring the facility to establish a procedure for providing funds to residents on days when withdrawal periods are not scheduled. This change is necessary and reasonable and does not constitute a substantial change for purposes of 9 MCAR § 2.111.

62. Section 1.053 N. This part pertains to the administration of medications by unlicensed personnel. The purpose of this language is to assure that the unlicensed personnel permitted to administer medications in nursing homes or boarding care homes have the training and skills necessary to properly administer them. The rule incorporates existing practice and existing federal certification requirements relating to the use of unlicensed personnel in this area. Some individuals questioned the applicability of this rule to boarding care homes. Since the rule does not apply to some boarding care homes, the Department proposes to amend the second sentence of the rule to read as follows:

> THE FOLLOWING APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES: Unlicensed nursing personnel who administer medications in a nursing home or a boarding care home certified as an intermediate care facility as defined in 42 U.S.C. 1396d must have completed a medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution.

so amended p.17

With this amendment, the rule is necessary and reasonable and the amendment clarifying its coverage does not constitute a substantial change for purposes of 9 MCAR § 2.111.

7 MCAR § 1.057 - Schedule of Fines for Uncorrected Deficiencies

63. Under Minn. Stat. § 144A.10, subd. 6, the Department has authority to levy fines of up to $250 for each day a nursing home remains in noncompliance with correction orders issued by it. Under Minn. Stat. § 144.653, subd. 6, the Department has authority to issue fines against boarding care homes and supervised living facilities for similar reasons. The Department has historically divided its schedule of fines into three levels of assessment: $50, $150 and $250. The three levels are based on the degree of harm that would result if the nursing home fails to comply with the particular rule. The need and reasonableness of this approach has been previously approved. See, Report of the Hearing Examiner, HLTH-80-040-GB, dated May 20, 1980. The Hearing Examiner is bound by those prior determinations of reasonableness. The Department is not required to reestablish the need and reasonableness of such a concept each time internal modifications or adjustments in the fine schedule are made. Once established, the approach approved may be continued in the absence of a showing that due to changes in conditions or relevant statutory provisions what was once reasonable is no longer a reasonable approach. The concept of a three-tiered fine schedule has been approved and its reasonableness established. Further consideration of that approach is not appropriate at this time. The scope of the review in this case is whether the fines proposed to cover the new rules being adopted are appropriate, not the general concept already in existence. For the same reasons, it is beyond the scope of this proceeding to reconsider the constitutionality or the propriety of a daily fine which is specifically authorized by statute for nursing homes and which was previously approved. Those issues are beyond the scope of this proceeding and will not be considered.

64. Various objections to the fine schedules proposed were raised by interested parties. In its post-hearing comments, the Department stated that

it has not adjusted the fines originally proposed because any change would constitute a "substantive" change for purposes of 9 MCAR § 2.111. This conclusion may be sound where no change was proposed to existing fine schedules. However, the Hearing Examiner is not persuaded that any change in the fine schedule originally proposed in this proceeding will constitute a substantial change for purposes of 9 MCAR § 2.111. The whole purpose of holding a hearing on proposed rules is to invite public comment and input in order to determine whether or not the proposed action is appropriate and to guarantee that the Department has considered all relevant circumstances. If a fine schedule proposed is somehow exempt from alteration during the rule hearing process, the hearing itself is rendered a meaningless exercise insofar as the amount of the fines is concerned. The Hearing Examiner is not persuaded that the fines proposed for specified violations may not be adjusted upward or downward during the course of the rule hearing process and after the Department receives input and information from the public. Any other conclusion would negate the whole purpose of rule hearings under Chapter 15. For that reason, the agency is urged to reconsider public comments concerning the various assessment levels at which various violations have been set and to make the adjustments it believes are appropriate, needed and reasonable based on the additional information they now have. If any of those alterations are deemed substantial by the Chief Hearing Examiner after his review, they can be rejected at that time, but the public comments received deserve careful scrutiny by the Department and adjustment where necessary or reasonable. Some of the public comments will be discussed but even those that are not should be considered by the Department in formulating its final fine schedule.

The adoption of fines is a peculiarly legislative function resting within the sound discretion of the agency empowered to impose them. Whether a particular violation should be treated as more or less serious involves many delicate considerations and an exercise of the Department's expertise. For that reason, the Department has a great deal of discretion in determining what fine is appropriate for any particular violation and unless the fine adopted is so arbitrary or inequitable as to amount to an abuse of that discretion, the fines proposed must be considered reasonable.

65. Section 1.057 A. Assessments issued to boarding care homes under this part were not modified by the agency's proposed rules. The amendments merely updated internal citations and made no substantive changes. The changes made to this part are necessary and reasonable as proposed.

66. Section 1.057 C. This part lists the specific rules which if not corrected as ordered will result in a $50 penalty assessment to boarding care homes pursuant to Minn. Stat. § 144.653, subd. 6. The $50 assessment is imposed for failure to correct violations of those rules which do not directly relate to the provision of patient care and for which noncompliance would not present a hazard to the patient's health or safety. Although the Nursing Home Residents' Advocates objected to a $50 penalty assessment for the failure to return residents' funds at discharge and give a full accounting upon a resident's death under subparts n. and o., the penalty assessment proposed is necessary and reasonable and consistent with the Department's overall assessment scheme.

As was discussed previously (Finding 23), the Department has specific statutory authority to issue correction orders to nursing homes for violation of the Vulnerable Adults Act or the rules promulgated thereunder (Minn. Stat. § 144A.10, subd. 4, as amended in 1982). However, it lacks such authority over facilities licensed under Section 144.50. As to them it has authority to issue correction orders only for violations of rules promulgated pursuant to Section 144.56. Since the provisions of 7 MCAR § 1.043 are promulgated under Section 626.557, subd. 16(b), and not pursuant to Section 144.56, and since specific authority like that granted to the Commissioner over nursing homes was not granted to him over other facilities, all rules in this part, and in the remainder of the rules, which establish a fine for violations of 7 MCAR § 1.043 by facilities licensed under Section 144.50 are unauthorized and in excess of the Department's delegated authority for purposes of Minn. Stat. § 15.0412, subd. 1. This constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect all fine schedules pertaining to 7 MCAR § 1.043 must be deleted from this part and in 7 MCAR § 1.057 C.2. and 1.392 O.1. and 2., and the remaining subparts renumbered accordingly.

When corrected, the rule is necessary and reasonable and within the scope of the Department's authority.

67. Section 1.057 C.2. This part imposes a $250 assessment for a boarding care home's failure to correct violations of the rules specified therein. Subject to the conclusions in Finding 66, the provisions of this part are necessary and reasonable as proposed and within the scope of the Department's delegated authority.

68. Section 1.057 D. This part imposes a daily fine of $50 for a nursing home's failure to comply with correction orders relating to the rules specified therein. Again, the Department proposes to delete Part D.1.g.--pertaining to compliance with 7 MCAR § 1.043 D.3.--for the same reason that this provision was eliminated from the boarding care fine schedule. The amendment deleting this provision is necessary and reasonable and does not constitute a substantial change for purposes of 9 MCAR § 2.111.

In response to comments submitted by MAHCF, the Department also proposes to delete Parts D.1.h. and i. and renumber the remaining subparts accordingly. These two subsections pertain to violations of 7 MCAR § 1.044 Y.2. and 3., which are procedural rules governing the time periods for submittal of certain applications. Since the failure to comply with those rules would result in the inability of the Department to issue a license, and since other controls exist to assure compliance with the requirements, the Department has determined that a fine for noncompliance is unnecessary. As amended, Part D.1. is necessary and reasonable and the amendments deleting subparts h. and i. do not constitute substantial changes for purposes of 9 MCAR § 2.111.

It was suggested by the Minnesota Board on Aging and by the Nursing Home Residents' Advocates that Part D.1.r., relating to violations of 7 MCAR § 1.053 F.2., should be changed to make an uncorrected violation of the latter rule subject to a greater fine. Since the rule deals with controlled substances and other drugs and their handling, it was argued that a $50

penalty is too low. The Hearing Examiner agrees that since no change in this rule was proposed, the Department properly refused to consider these changes.

69. Section 1.057 D.2. This part pertains to those uncorrected violations of Departmental rules by a nursing home which will result in the assessment of a daily $150 penalty. Both the Legal Advocacy for Older Americans Project and the Nursing Home Residents' Advocates noted that a nursing home's violation of several rules pertaining to the keeping of pet animals and minimizing the risks of abuse to vulnerable adults carry a $150 penalty while violation of similar rules by boarding care homes result in a $250 penalty. Both organizations suggested that the penalty provisions for these kinds of facilities be equalized. Many of the discrepancies in fine amounts will be cured by the required deletion of fines for violations of the Vulnerable Adults Act by boarding care homes. Differences that continue to exist between the fine schedules of these two types of facilities are necessary and reasonable because the fines imposed on nursing homes accrue on a daily basis while those imposed on boarding care homes do not. This difference justifies the imposition of different fines for the same kind of uncorrected violation.

70. Section 1.058. This part pertains to the time periods allowed for the correction of specified deficiencies found upon an inspection of a covered facility. The Department has separated allowable time periods for correction into three categories: 14 days, 30 days and 60 days. This general approach to correctional periods was approved in 1980. See, Report of the Hearing Examiner, HLTH-80-040-GB, dated May 20, 1980. Continuation of that approach in these rules is necessary and reasonable.

Since this section applies only to nursing homes, the Department proposes to amend Part A. to read as follows:

> A. Allowable time periods for correction. The allowable time period for complying with a correction order issued by the department to a nursing home shall be as follows:

This amendment which merely clarifies the scope of the proposed rule is necessary and reasonable and does not constitute a substantial change for purposes of 9 MCAR § 2.111.

Additional amendments will be required in this section due to the restructuring of 7 MCAR § 1.042 and other rule changes approved in or required by in this Report. Those changes are all necessary and reasonable and will not result in substantial changes for purposes of 9 MCAR § 2.111.

71. Since the fine imposed upon nursing homes for failure to comply with 7 MCAR § 1.044 Y.2. and 3. has been eliminated by the Department, the time period allowed for correction in 7 MCAR § 1.058 A.1.a. and b. should also be eliminated from the Department's final draft of these rules. Likewise, the Department's proposal to reletter the subsections of Section 1.058 A. to list the rules in numerical sequence as suggested by MAHCF are all appropriate changes which are not substantial for purposes of 9 MCAR § 2.111.

okp. 21

72. Section 1.058 C. This part contains all new language authorizing the Department to reduce the time period otherwise specified by rule for the correction of violations, where noncompliance will jeopardize the health, treatment, safety, comfort, or well-being of the nursing home residents. If a shorter time period is specified, it must be stated in the correction order and related to the nature of the violation and the interests of the residents.

Immediate correction would be authorized under this rule. As proposed, the rule fails to make the law enforced or administered by the agency specific as required by Minn. Stat. § 15.0412, subd. 3, and gives Departmental personnel unlimited discretion in fixing allowable time periods for the correction of violations found. This unfettered discretion, which is not accompanied by any meaningful standards or criteria limiting or clarifying when the time periods allowed should be decreased is not permissible. To per- mit the time period to be reduced for any noncompliance which jeopardizes the health, treatment, safety, comfort or well-being of the nursing home residents is a standard of such breadth as to permit the shortening of virtually every time period specified in the rules. Although the Department has statutory authority to adopt a formula for reducing time periods in special situations, it has failed to establish the need and reasonableness of adopting such a broad provision containing no limiting criteria or standards to guide the exercise of the discretion it gives to Departmental personnel. This constitutes a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c. To correct this defect, this provision should be eliminated or rewritten to limit the discretion given by meaningful criteria. If the Department adopts such changes before these rules are promulgated, the the specificity of the rule and whether it constitutes a substantial change will be considered before final approval is given.

eliminated p. 23

73. Section 1.043 O. This part adopts a schedule of fines for violations of 7 MCAR §§ 1.042 and 1.043 by supervised living facilities. Fines are authorized for a supervised living facility's violation of some rules under Minn. Stat. § 144.653, subd. 6. The Department proposes to delete Part O.1.g. relating to noncompliance with the discretionary provisions of 7 MCAR § 1.043 D.3. as it did with boarding care homes and nursing homes. This is a necessary and reasonable amendment and does not constitute a substantial change for purposes of 9 MCAR § 2.111.

Supervised living facilities, like boarding care homes, are licensed under Minn. Stat. § 144.50. Since the Department may not impose fines on boarding care homes for violations of rules promulgated under Minn. Stat. § 626.557 (see, Finding 66) it has no such authority over supervised living facilities. Consequently, all references to 7 MCAR § 1.043 must be deleted from Part O. on the same grounds. Once the defects are cured, this part is necessary and reasonable.

deleted p. 22

74. Due to the post-hearing amendments proposed by the Department and due to further relettering and renumbering that will be necessary, many of the internal citations contained in the rules originally proposed will be necessary. This is particularly true with respect to the amendments made to the pet animal rules. Those amendments will require changes in the rules assessing the fines for uncorrected violations. These changes are needed to make the rules internally consistent and compatible and are reasonable. None of the specific amendments proposed at this point constitute substantial changes for purposes of 9 MCAR § 2.111.

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

CONCLUSIONS

1. That the Department gave proper notice of the hearing in this matter.

2. That the Department has fulfilled the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 3(4)(i) and (ii) (1980), except as noted at Findings 10, 11, 23, 27, 34, 44, 51, 54, 55, 56, 57, 58, 66, 72 and 73.

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 15.0412, subd. 4d (1980) and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That the Hearing Examiner has suggested action to correct the defects cited in Conclusion No. 3 as noted at the Findings cited therein.

7. That due to Conclusion No. 3, this Report has been submitted to the Chief Hearing Examiner for his approval pursuant to Minn. Stat. § 15.0412, subd. 4d (1980).

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

9. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Department from further modification of the proposed rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

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

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated: December 23, 1982.

Jon L. Lunde

JON L. LUNDE
Hearing Examiner

HLTH-83-005-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on October 28, 1982, before Jon L. Lunde, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with the rule-making provisions of Minn. Stat. Ch. 14 (1982); and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 14.50, was issued to the Department of Health and;

WHEREAS, the Department of Health has now determined to adopt rules; and

WHEREAS, the Department of Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 14.16, 14.51, and 9 MCAR § 2.111; 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 Health has cured the defects in the rule as required, except as discussed below.

At Finding 58 of the examiner's report, the examiner found that the last sentence of proposed rule 7 MCAR § 1.044 Y. 12., establishing a burden of proof for certain cases, violated the provisions of Minn. Stat. § 15.0412, subd. 1 (1980), which is now codified as Minn. Stat. § 14.05, subd. 1 (1982). He found that it was therefore a substantive violation of law for purposes of Minn. Stat. § 15.0412, subd. 4c (1980), now codified as Minn. Stat. § 14.14, subd. 2 (1982). The examiner found that the department had no statutory authority to allocate the burden of proof among the parties in a contested case proceeding. By Order dated January 3, 1983, the Chief Hearing Examiner agreed and approved the examiner's finding and conclusion.

Minn. Stat. § 14.51 (1982) specifically authorizes and delegates to the Chief Hearing Examiner the authority to adopt rules "to govern the procedural conduct of all hearings...[including] contested case hearings... The procedural rules for hearings shall be binding upon all agencies and shall supercede any other agency procedural rules with which they may be in conflict." Pursuant to that authority, rule 9 MCAR § 2.217 C.5. was duly adopted.

The issue raised by proposed part Y. 12. is whether the department has authority to adopt the burden of proof rule proposed. We have determined that it does not. The purpose for specifically authorizing a single agency to

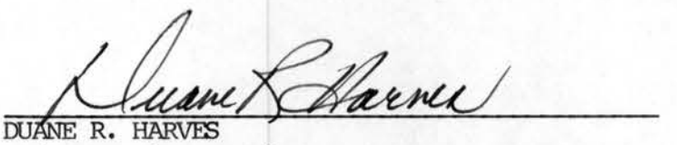
adopt procedural rules for contested case hearings was to eliminate the very thing proposed by these rules, that being different procedures to be followed depending on the agency involved in the hearing. As there is a rule in existence covering the subject, and as the existing rule specifically supercedes any rule which may conflict, the proposed rule is not necessary as well as being unauthorized.

The Office of Administrative Hearings has been given the exclusive authority to adopt rules pertaining to procedural matters under the statutory provisions previously cited. Matters of evidence, including burden of proof, are part of the law of remedy. 14A C.J.S., Conflict of Laws, §§ 22(1) and 22(9). The law of remedy is the same as procedural law or adjective law. Adjective law is defined in 1 C.J.S. Adjective Law at page 1468 as: "The law which pertains to practice or procedure, or the legal machinery by which substantive law is made effective;...." [See also Meager v. Kavli, 251 Minn. 477, 88 N.W.2d 871, 879, 880 (1958).] The department has failed to provide any statutory authority allowing it to adopt procedural rules which conflict with rules of the Office of Administrative Hearings.

Minn. Stat. § 14.14, subd. 2 (1982) requires the department to fulfill any relevant substantive or procedural requirements imposed on the agency by law or rule when adopting rules. Minn. Stat. § 14.05, subd. 1 (1982), which mandates that an agency shall adopt, amend, suspend or repeal its rules only pursuant to authority delegated by law, is a substantive requirement of law imposed on all agencies. Minn. Stat. § 14.51, providing that the procedural rules adopted by the Chief Hearing Examiner shall be binding on all agencies is a substantive requirement of law imposed on all agencies. Minn. Stat. § 14.15, subd. 3 (1982) provides that if a hearing examiner's report contains a finding that the agency has not met the requirements of §§ 14.13 to 14.18, and the Chief Hearing Examiner approves the finding, the agency shall not adopt the rule until the Chief Hearing Examiner determines that the defects have been corrected. (The issues of need and reasonableness do not apply to this section.)

NOW, THEREFORE, UPON RECIEPT OF THIS ORDER, the Department of Health shall delete the last sentence of rule 7 MCAR § 1.044 Y. 12. or withdraw the rules. If the department chooses to delete the sentence, the defect will be corrected and the rules may be adopted as otherwise submitted for review on June 6, 1983.

Dated: June 8th, 1983.



DUANE R. HARVES
Chief Hearing Examiner

HLTH-83-005-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on October 28, 1982, before Jon L. Lunde, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with the rule-making provisions of Minn. Stat. Ch. 14 (1982); and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 14.50, was issued to the Department of Health and;

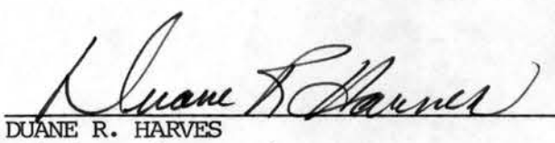
WHEREAS, the Department of Health has now determined to adopt rules; and

WHEREAS, the Department of Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 14.16, 14.51, and 9 MCAR § 2.111; 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 Health has cured the defects in the rule as required.

NOW, THEREFORE, upon receipt of this Order, the Department of Health has the responsibility of submitting the complete hearing record and the rules as adopted by the Department of Health to the Attorney General and to publish in the State Register if approved by the Attorney General.

Dated: June 9, 1983.



DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

RECEIVED
OCT 1 1982
ADMINISTRATIVE HEARINGS

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

AMENDMENT TO RULES AS PUBLISHED AND A SUPPLEMENTARY STATEMENT OF NEED AND REASONABLENESS

Agency Exh. No. 13
File No. HLTH-83-005-JL
Date 10-28-82

Amendments to Rules

The Department of Health proposes to amend the rules captioned above as printed in the State Register on Monday, September 27, 1982 (7 S.R. 407) as follows:

7 MCAR §1.057 Schedule of fines for uncorrected deficiencies

Delete the following sections:

C.1.g.	7 MCAR §1.043 D.3.
D.1.g.	7 MCAR §1.043 D.3.

Reletter the remaining subsections of those rules as follows:

C.1.h.-q.	as C.1.g.-p.
D.1.h.-t.*	as D.1.g.-t.

7 MCAR §1.058 Allowable time periods for correction

Delete the following section:

A.10.n.	D.3.	14 days

Reletter the remaining subsections of the rule as follows:

A.10.o.-t.	as A.10.n.-s.

*An error was found in the Revisor's copy of the rules: Two sections were both identified as D.1.n. This error is also found in the rules as published in the State Register on page 416.

7 MCAR §1.392 O. Schedule of fines for uncorrected deficiencies

Delete the following section:

1.g. 7 MCAR §1.043 D.3.

Supplementary Statement of Need and Reasonableness

The proposed rule, 7 MCAR §1.043 D.3. reads as follows:

> The development, review and revision of the individual abuse plans may be part of a patient's or resident's care plan.
>
> (Emphasis supplied)

This rule does not impose a mandatory requirement on a health care facility. Rather, the rule merely notes that the individual abuse prevention plans can be incorporated into the existing care plans utilized by a specific facility. As noted in the Department's Statement of Need and Reasonableness at page 39, this rule was included "to assure that facility providers are aware that these abuse prevention plans can be incorporated into existing care plans ... and that a new independent record need not be developed."

Since this rule does not impose a mandatory requirement on a facility, noncompliance with the provision would not result in the issuance of a correction order or penalty assessment. Thus, the inclusion of the reference to this rule in the schedules of fines and in the schedule of allowable time periods for correction is misleading. Those references could be construed as subjecting a facility to a correction order or fine for the failure to include the individual abuse prevention plans in the general care plans for residents. Therefore, to eliminate any confusion in this regard, the Department wishes to amend the rules as printed by deleting the references to this section from the schedules of fines and the schedule of times.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Assistant Attorney General Richard A. Wexler, do hereby declare that based upon my familiarity with the above-captioned rules, all related documents, the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings and the rules of the Attorney General have been followed without any exceptions.

Dated: June 9, 1983

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

RICHARD A. WEXLER
Assistant Attorney General

STATE OF MINNESOTA)
)
COUNTY OF HENNEPIN)

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

AFFIDAVIT
OF MAILING

Paula Kopka, being first duly sworn, deposes and says:

That on the 6th day of June, 1983, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached notification of the filing of rules with the Office of the Attorney General by depositing in the United States mail, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations requesting such notification as indicated on the attached Rule Hearing Register.

Paula Kopka

Frederick L. King

Subscribed and sworn to before
me this 9th day of June, 1983.

FREDERICK L. KING
WASHINGTON COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES FEB. 22, 1984

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Debra Krats
8761 Preserve Boulevard
Eden Prairie, Minnesota 55344

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

In accordance with the provisions of Minnesota Statutes, §14.16 (1982), you are hereby notified that the Department of Health has, today, submitted the above-entitled rules, presented at public hearing on October 28, 1982, to the Attorney General's Office.

HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Mr. James Prokop
403 Maria Avenue
St. Paul, Minnesota 55106

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Judy Witherspoon
135 East Colorado
St. Paul, Minnesota 55107

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Senator Marilyn Lantry
2169 Beech
St. Paul, Minnesota 55119

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Mr. Ron Sadowsky
Box 642
Willernie, Minnesota 55090

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Pamela Younger
Box 181 Mayo
420 Delaware Street Southeast
Minneapolis, Minnesota 55455

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 7, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities: a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act: Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes: a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules: and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

In accordance with the provisions of Minnesota Statutes, §14.16 (1982), you are hereby notified that the Department of Health has, today, submitted the above-entitled rules, presented at public hearing on October 28, 1982, to the Attorney General's Office.

HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Kathleen Burek
Legislative Committee to
Review Administrative Rules
435 Park
430 State Office Building
St. Paul, Minnesota 55155

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Donna Dielentheis
Washington County Community
Health Services
2000 Industrial Boulevard
Stillwater, Minnesota 55082

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Joanne Clasman
69 North Milton
St. Paul, Minnesota 55104

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : L. Schmidt
Board on Aging
204 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Maryan Kellar
719 East 16th Street
Minneapolis, Minnesota 55404

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Signe Burckhardt
Metropolitan Senior Federation
1951 University Avenue
St. Paul, Minnesota 55104

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Laura Reynolds
233 West Fifth Street
St. Paul, Minnesota 55102

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Mary Martin
Association for Residences for
the Retarded in Minnesota
459 Rice Street - Suite 301
St. Paul, Minnesota 55103

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Terry Beartusk
P.O. Box 60
Sawyer, Minnesota 55780

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Kathy Higzius
744 19th Avenue North
S. St. Paul, Minnesota 55075

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Mr. Rick Carter
Minnesota Association of
Health Care Facilities
2850 Metro Drive #429
Minneapolis, Minnesota 55420

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 1 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Mr. Dave Feinwachs
Minnesota Hospital Association
2221 University Avenue
Minneapolis, Minnesota 55418

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 7, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Grace Nelson
Minnesota Senior Federation
7500 York Avenue South #307
Edina, Minnesota 55435

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Mr. Joseph Quigley
1540 South Timber Ridge Northeast
Fridley, Minnesota 55432

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Pat Dullen
135 Colorado Street East
St. Paul , Minnesota 55107

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Marilyn Westerberg
Regina Nursing Home
Nininger Road
Hastings, Minnesota 55033

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : James B. Sinis
Legislative Resource Consultants
P.O. Box 3812
St. Paul, Minnesota 55165

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Rhoda E. Miller
238 Pleasant Avenue
St. Paul, Minnesota 55102

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Barbara Blumer
Minnesota Association of
Health Care Facilities
2850 Metro Drive #800
Minneapolis, Minnesota 55420

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

In accordance with the provisions of Minnesota Statutes, §14.16 (1982), you are hereby notified that the Department of Health has, today, submitted the above-entitled rules, presented at public hearing on October 28, 1982, to the Attorney General's Office.

HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Karen Struve
3701 Bryant Avenue South
Minneapolis, Minnesota 55409

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 6, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Reverend T.C. Peterson
6201 213th Lane Northeast
Wyoming, Minnesota 55092

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9 , 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Ms. Joan Lisi
Humane Society of
Ramsey County
1115 Beulan Lane
St. Paul, Minnesota 55108

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

an equal opportunity employer

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

TO : Louise Tsumori Lue
Nursing Home Residents Advocates
3231 First Avenue South
Minneapolis, Minnesota 55408

FROM : H. Michael Tripple
Assistant Section Chief
Health Systems Division
Telephone Number: (612) 623-5448

DATE : June 9, 1983

SUBJECT : Submission of Rules to the Attorney General's Office - In the Matter of Rules Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

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HMT:lm

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RULE HEARING REGISTER

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HLTH-83-005-JL
10-28-82

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Debra Kraty	Muriel Humphrey Residences	8761 Preserve Boulevard, Eden Prairie MN 55344	941-5376		✓
Mrs. Prokop	St Johns Hospital	403 Maria Ave St. Paul, 55106	228-5484	✓	✓
Howard Schurr	Andrew Inc	1215 S 9th St Mpls 55404	333-0111		
Judy Wittenstein	Phoenix Residence	135 E. Colorado, St. Paul 55107	227-7655		✓
Trudy Christison	New Brighton Seniors	2287 Silver Dr #113 New Brighton 55112	633-3524		
MARILYN CANTRY	DIST. 67	2169 BEECH ST. PAUL 55119	296-8017	✓	✓
[illegible]	Rainbow Residence	285 - Cedardale Drive Owatonna 55060	507-451-5327		
Ron SADOWSKY	NEXTEP, Inc Animal Rights Coalition	Box 642 Willernie Mn 55090	426-1134	✓	✓
Pamela Younger	U of M. Hospitals	BOX 181 Mayo 420 Delaware St S.E.	Mpls Mn 55455		✓
Kelly Sheehan	RCCHSD	160 E. Kellogg Blvd	St. P. 55101		

HG-00048-01

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Kathleen BURGIC	Leg. Comm. to Rvw. Adm. Rules	430 SOS St. Paul	6-1143		✓
Jim McDuffie	Pine County	Box 110 % Court House Pine City 55063	629-6781		
Dana Duelen theis	Wash Co CHS	2000 Industrial Blvd Stillwater Mn	430-1400		✓
Erich Eckberg	Metro Diversified	4420-31st ave So Mpls	724-2417		
Terry Sullo	No. St. Paul Nursing Home	2375 Hillman Ave - N.S.P.	777-7435		
Ann Chapman	Perpetual B+C	69 N. Dalton	227-1333		✓
L. Schmidt	Bd. on Aging	204 Metro Sq., St. Paul	6-0378		✓
Maryon Kiela	Villa Maria Inc	719 E 16th St Mpls. Mn 55404	339-7251		✓
Shirley E Heim	Villa Maria Inc.	719 E. 16th St. Mpls Mn 55404	339-7281		
T Haviland	" "	" " " "	339-7281		
Ellis R Johnson	Green Acres N.H	North Branch, Minn	674-7068		
Ruth Ingberg	Green Acres N.H.	North Branch, Mn	674-7068		
Shirley Stevens	Essex Health Care Inc.	525 2nd St S.E. Essex, Minn	425-2128		
Irma G. Huber	Ebenezer Society	2545 Portland Ave-S. Mpls. 55404	871-7112		
Joyce Traczyk	" "	2523 Portland So. Mpls 55404	870-0059		

HG-00048-01

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Zella Feder	DPW		296-4019		
Robert Paley	Wilson Center	Faribault Mn.	(507) 334-5561		
Les Goldberg	Good Neighbor Care Center	St Paul	698-6544		
Joyce Burckhardt	Metro Senior Federation	Mpls.	823-3877	✓	✓
Monterey Thusington	Retired Teachers	525 2nd St SE Osseo Mn.	425-2128		
James Hlavac	Homeward Bound Inc	4741 Zealand Ave. No	535-6171		
Dana Reynolds	The Louisiana Home	233 W. Fifth St., St. Paul	222-7200		✓
Pat Carlson	Woodvale Groups	PO Box 1047 Austin Mn	507-433-762 437-7621	/	
Mary Martin	ARRM	459 Rice St. St Paul 55103	291-7475		✓
Judy Cline	Villa Maria	719 E. 16th St. Mpls 55404	339-7281		
Carol Messler	Dakota Co. Public Hlth Nsg	744 - 19th Ave No, So St Paul 55417	455-2291		
Candace Paulsen	Howard Lake Care Center	Box 68 Howard Lake, Mn.	543-3505		
Terry Beartusk	Mish-ko-wisen	P.O. Box 60, Sawyer, MN. 55780	(218) 879-6731		✓
Kathy Higgins	Dakota	744 19th Ave No. SP 55127	455-2291		✓
Rick & Carter	Mn Assn of Health Care Fac	2850 Metro Drive #129 Mpls 55420	854-2844		✓

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Dave Feinwachs	Minn Assoc Homes for the Aging	2221 Univ. Mpls MN	331-5571	✓	✓
Grace Nelson	Minn Sr. Federation	75 W York Ave. St. # 307 Edina 55435	831-5567		✓
Roger Quigley	Univ. of Minn.	1545 S Timberridge N.E. Hastings 55033	521-5391	+	✓
Pat Dullea	The Phoenix Residence	135 Colorado st E., St Paul	227-7655 ~~770-06~~		✓
Marilyn Westenberg	Region N. W.	Hastings, Minn	437-8435		✓
James B Finis	Aging Resources Consultants	P.O. Box 3812, St. Paul 55165	699-3987		—
Kris Sundberg	Minn St Pharmaceutical Assn	2221 Univ Mpls	378-1484	✓	
Marguerite Piersma	Hakka House, Inc.	238. Pleasant av. St Paul	222-7491		✓
Rhoda E Miller	" " "	" " " "	" "		
Jim Varpness	Minnesota Board on Aging	204 Metro Sq. St. Paul 55101	296-7465		
TONY CREMERS	Minn Dept of Public Welfare	Centennial Bldg St Paul 55155	296-3730		●
Barbara Blumer	Mn Assoc of Health Care Fac	2850 Metro Drive # 800 Mpls 55420	854-5263	✓	—
Karen Struve	" " " "	Walker Methodist Res Bryant Ave Mpls		✓+	✓
Rev. TC Pitts	6201-213th Ln NE	Wyoming, Mn 55092	462-5680	+	✓
Bob Prompton	Texas Research	2696 abbott ave. N. Mpls	588-1660	+	
Joan Lisi	Human Svc. Ramsey Co	1115 Beulah Ln St P 55108	646-6328	If time	✓
Sue Jewlon	Guild Hall	286 marshall ave	291-0067		
Bob Ryan	Guild Hall & Apts	" " "	291-0067		
Louise Tsumori Lue	Nursing Home Residents Advocate	3231 1st Ave S. Mpls 55408	825-8686 1	+	✓

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ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of a Proposed Rule Relating to the Keeping of Pet Animals in Health Care Facilities; a Proposed Rule Implementing the Provisions of the Vulnerable Adult Abuse Reporting Act in Facilities Licensed or Certified by the Department of Health; Proposed Amendments to the Rules Relating to the Operation and Licensing of Nursing Homes and Boarding Care Homes; a Proposed Rule Relating to the Dual Option Provisions of the Health Maintenance Organization Rules; and a Proposed Rule Providing for the Issuance of Fines to Supervised Living Facilities.

Agency Exh. No. 11
File No. HLTH-83-005-JL
Date 10-28-82

STATEMENT OF NEED AND REASONABLENESS

The Minnesota Commissioner of Health (hereinafter "Commissioner") pursuant to Minn. Stat. §15.0412, subd. 4c and Office of Administrative Hearings rule 9 MCAR §2.104, hereby affirmatively presents facts establishing the need for and the reasonableness of the above-captioned rules adoption and amendment.

In order to adopt the proposed rules, the Commissioner must demonstrate that he has complied with all the procedural and substantive requirements of rulemaking. Those requirements are that (1) there is statutory authority to adopt the rule; (2) all necessary procedural requirements have been taken; (3) the rules are needed; (4) the rules are reasonable; and (5) any additional requirements imposed by law have been satisfied. This statement demonstrates that the Commissioner has met these requirements.

This Statement is organized in the following manner:

A. Statutory Authority . . . . . page 2

B. Statement of Need . . . . . page 3

C. Compliance with Procedural Rulemaking Requirements . . . page 4

1. Procedural Rulemaking Requirements of the Administrative Procedure Act . . . . . page 4

2. Non-Mandatory Actions by the Commissioner . . . . . page 6

D. General Statement of Reasonableness . . . . . page 7

E. Rule-by-Rule Justification . . . . . pages 8 - 155

7 MCAR §1.042 Pet animals in health care facilities . . . . . page 9

7 MCAR §1.043 Preventing abuse and neglect of vulnerable adults in facilities licensed or certified by the Department of Health . . . . . page 23

7 MCAR §1.044 T. and Y. Procedures for licensing nursing homes and boarding care homes . . . . . page 44

7 MCAR §1.048 A.8. Record of patients' and residents' funds . . . . . page 95

7 MCAR §1.053 N. Administration of medications by unlicensed personnel . . . . . page 98

7 MCAR §1.057 Schedule of fines for uncorrected deficiencies . . . . . page 102

7 MCAR §1.058 Allowable time periods for correction . . . . . page 125

7 MCAR §1.377 B.5. Dual option amendment . . . . . page 141

7 MCAR §1.392 O. Schedule of fines for uncorrected deficiencies (Supervised Living Facility Rule) . . . . . page 151

A. Statutory Authority

The statutory authority of the Commissioner to adopt these rules is briefly noted below. The specific statutory authority for each rule or rule amendment is discussed in detail as part of the rule-by-rule justification.

- Minn. Stat. §§144.573 and 144A.30 requires the Commissioner to develop rules relating to the care, type and maintenance of pets in health care facilities.

- Minn. Stat. §626.557 requires the Commissioner to adopt rules implementing the provisions of the Vulnerable Adult Abuse Reporting Act, Minn. Stat. §626.557

- Minn. Stat. §144.56 and §§144A.02 - .07 provide the Commissioner the authority to develop rules relating to the licensing of boarding care homes and nursing homes.

- Minn. Stat. §§144.56 and 144A.08 provides the Commissioner the authority to promulgate rules relating to the construction, maintenance, equipment, and operation and licensing of boarding care homes and nursing homes.

- Minn. Stat. §§144.653 and 144A.10 require the Commissioner to adopt a schedule of fines for noncompliance with correction orders and also requires the development of a schedule of allowable times for correction.

- Minn. Stat. §62E.17 grants rulemaking authority to the Commissioner to adopt rules as necessary to implement the provisions of Minn. Stat. §62E.17.

B. Statement of Need

The Department of Health's request to initiate a public hearing on the complete revision of the nursing home licensure rules was denied by the Governor and the Legislative Advisory Commission (LAC) in March of this year. The Governor's approval, after LAC consultation, was mandated by the provisions of Minn. Laws 1981, Chapter 3260, section 14. The Department then decided to proceed with the rulemaking process for only those rules specifically required by statute and which would not increase state expenditures by more than $50,000. A copy of a memorandum from Commissioner Pettersen, dated April 29, 1982 explaining this decision is attached as Appendix A. As noted in Section A., above, the majority of the rules being proposed at this time are expressly mandated by statute - the pet rule, the rule relating to the Vulnerable Adult Abuse Reporting Act and the licensure requirements for nursing homes. The promulgation of those substantive rules requires that a schedule of fines and

a schedule of allowable times for correction corresponding to those provisions also be developed. In order to conform with the statutory requirements, the Commissioner is compelled to promulgate these rules. The remaining rules, the personal fund amendment, the provision relating to medication administration by unlicensed personnel and the amendment to the dual option provision of the HMO rule are required to clarify the regulatory activities of the Commissioner. The need for those provisions is specifically addressed in the rule-by-rule justification. It is the Department's position that the need for all of the rules proposed at this time is well established.

C. Compliance with Procedural Rulemaking Requirements

Minn. Stat. §15.0412, rules of the Office of Administrative Hearings, and the rules of the Attorney General, all specify certain procedures which must be followed when an agency adopts rules. All prehearing requirements have been complied with by the Commissioner. The most significant ones are addressed below.

1. Procedural Rulemaking Requirements of the Administrative Procedure Act.

Minn. Stat. §15.0412, subd. 6, requires agencies which seek information or opinions in preparation for adoption of rules from sources outside the agency to publish a notice of its action in the State Register and to afford all interested persons an opportunity to submit data or views on the subject. Any written material, as well as the Notice itself, must be made part of the hearing record. In the State Register issue of Monday, November 8, 1976, the Commissioner published a "Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rule Regulating Health Facilities". 1. S.R. 741. A copy of that Notice as well as any written material submitted in response to the Notice of Intent will be made a part of the record at the

hearing. In the State Register issue of Monday, April 13, 1981, the Commissioner published a "Notice of Intent to Solicit Outside Opinion Relating to the Vulnerable Adult Abuse Act". 5. S.R. 1621. A copy of that Notice as well as any written material submitted in response to the Notice will be made a part of the record at the hearing.

Minn. Stat. §15.0412, subd. 1 prohibits an agency from adopting a rule which repeats language from Minnesota Statutes unless the hearing examiner determines that "duplication of the language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect." The proposed rules, specifically the licensure procedures for nursing homes and the VAA rule do repeat language from the licensure law, Minn. Stat. §144A.01 - .17, and Minn. Stat. §626.557, the VAA law. An attempt has been made to identify each place and comment upon it in the rule-by-rule justification. However, there is in reality one justification which applies in each instance and will be noted here for convenience of interested parties as well as to cover any instance of duplication not specifically addressed.

The rules should have a hand-in-glove fit with the laws. This is in part because the rules implement those laws. But in this instance the connection is even closer because the laws also contain a fair amount of detail with respect to process, procedures, and substantive material. The rules have to pick up on what is already in the laws and either clarify it or, as authorized, provide further detail. With such a close connection between the laws and the rules, repetition of statutory language is virtually mandated. The repetition makes the rules more readable and more easily understood. The connection between the laws and the rules is clearer.

Duplication of language from the Act has been held to a minimum and only done where necessary to aid those reading the rules to understand

them. Even convenience to the reader should be sufficient ground to justify the repetition. In this case, however, because of the close interplay between the laws and the rules, repetition of language from the laws becomes "crucial to the ability of a person affected by...[the proposed rules] to comprehend... [their] meaning and effect." Minn. Stat. §15.0412, subd. 1.

A final prehearing procedural requirement of the Administrative Procedure Act is that at least 30 days before the hearing a Notice of Hearing and the full text of the proposed rules must be published in the State Register and the Notice must be mailed to all persons who have registered their names with the Commissioner for the purpose of receiving notice of rules hearings. Minn. Stat. §15.0412, subd. 4. Both of these requirements have been met. The Notice and rules were published in the State Register on September 27, 1981, 31 days before the hearing. (7 S.R. 407.) The Notice was mailed to people who had requested the Department to so notify them on September 16, 1982, 41 days before the hearing.

2. Non-Mandatory Actions by the Commissioner

While no other statute establishes requirements with which the Commissioner must comply as a condition of promulgating these rules, there are two additional actions by the Commissioner which should be addressed.

First, Minn. Stat. §15.0412, Subd. 4, states that an agency may, but only if it decides to do so, inform persons who had not registered with the agency for the purpose of receiving notice of rulemaking hearings of the scheduled hearing on a specific set of rules. The Commissioner has done so in this instance. On September 17, 1982, Department staff sent copies of the Notice of Hearing as well as the proposed rules to all health care facilities licensed and certified by the Department of Health. Each senator and representative also received a copy of the Notice of Hearing on September 17, 1982. Individuals that had requested information concerning the activities

of the Nursing Home Advisory Council and the development of the proposed rules were also mailed a copy of the Notice of Hearing on September 16, 1982. A copy of the Notice of Hearing and the proposed rules were also mailed on September 27, 1982 to parties expressing an interest in the HMO/ Dual option regulations. The Department mailed a news release to over 800 newspapers, radio and television stations and other interested parties around the state. Second, initial drafts of the rules relating to pets and the licensure procedures for nursing homes were reviewed by the Nursing Home Advisory Council. The Council's formal review of the entire set of nursing home rule revisions ended in September, 1979. This council is appointed by the Commissioner pursuant to Minn. Stat. §144A.17. It is available to the Commissioner to assist him with proposed rules and other matters relating to nursing homes. A draft of the rule relating to the Vulnerable Adult Abuse Reporting Act was mailed to Council members for written comments on March 24, 1981. The remaining rules affecting nursing homes, the amendment to the personal fund rule, rule relating to medication and administration by unlicensed personnel, and the revisions of the schedules of fines and the schedule of allowable time periods for correction were not submitted to the Advisory Council. These amendments were technical in nature and the Department did not feel that Council review was needed. It should be noted that the council's actions have no binding force. Its recommendations are advisory only.

D. General Statement of Reasonableness

In order to adopt rules, an administrative agency must demonstrate that the rules are reasonable. To be reasonable does not necessarily mean to be right. Rulemaking is a quasi-legislative process which primarily involves policy decisions. Thus, there is no inherently right or wrong approach. In

addition, the rules do not have to be the best possible rules. Because policy decisions are involved, determining what is best would be practically impossible. What is the best approach to one person is the worse approach to another because of their differing policy perspectives and biases. Thus, in examining a rule, the standard is not whether the rule is right or best but only whether it is reasonable——and in most cases there are many reasonable ways to address a subject covered by a rule. As long as the approach taken by the agency falls within the wide range of reasonableness, the agency has the right to adopt it.

What is reasonable? A rule is reasonable if there is a rational basis for it, or, to express it negatively, if the rule is not arbitrary or capricious. The Office of Administrative Hearings has provided a detailed explanation of reasonableness and the basis for establishing it in the Report of the Hearing Examiner in the proceeding, "In the Matter of the Proposed Adoption of Rules Governing the Identification, Labeling, Classification, Storage, Collection, Transportation and Disposal of Hazardous Wastes and Amendments to Minnesota Regulations SW 1, 2, 3, 4, 6 and 7, No. PCA-78-003-WS," at pp. 6-11, a copy is attached hereto as Exhibit A-1 and made a part hereof. It is, of course, the position of the Commissioner that the proposed rules are reasonable. It must be noted, however, that merely because the Commissioner asserts that the rules as proposed are reasonable does not mean that he will not take into consideration further suggestions and comments made at the hearing. The rulemaking (quasi-legislative) hearing process provides an excellent opportunity to improve the rules so that the final product is as useful, workable, and understandable as possible. However, it is clear that the rules as proposed are reasonable and meet every procedural and substantive requirement for adoption.

7 MCAR §1.042 Pet animals in health care facilities

General comments . . . . . page 10

Specific comments

A. Definition . . . . . page 12

B. Written policy . . . . . page 12

C. Conditions

§§ 1. - 2. Types of pets . . . . . page 14

§§ 3. - 5. Health of pets . . . . . page 17

§ 6. Facility responsibility . . . . . page 17

§ 7. Protection of residents . . . . . page 19

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§ 9. Area restriction . . . . . page 21

7 MCAR §1.042 Pet animals in health care facilities.

General comments

This proposed rule establishes the requirements to be followed by a health care facility regarding the keeping of pet animals on the premises of the facility. The specific statutory authority for the promulgation of the rule is contained in Minn. Stat. §144.573 and in Minn. Stat. §144A.30. Minn. Stat. §144.573, which applies to hospitals, supervised living facilities and boarding care homes, provides as follows:

> Facilities for the institutional care of human beings licensed under Minnesota Statutes 1978, Section 144.50, may keep pet animals on the premises subject to reasonable rules as to the care, type and maintenance of the pets.

Minn. Stat. §144A.30, which is applicable to nursing homes, provides as follows:

> Nursing homes may keep pet animals on the premises subject to reasonable rules as to the care, type and maintenance of the pet.

The promulgation of this rule is also within the Department's statutory authority to promulgate rules relating to the licensure of health care facilities contained in Minn. Stat. §144.56 and in Minn. Stat. §144A.08. For that reason, the Department considers the provisions of 7 MCAR §1.042 to be part of the licensure requirements for nursing homes, boarding care homes and supervised living facilities. Specific references to the provisions of this rule have been added to the licensure rules for those facilities. (7 MCAR §1.046 G. and 7 MCAR §1.392 M.)

This rule is also applicable to licensed hospitals. The provisions of the licensing laws as they relate to hospitals were amended in 1981 (Laws 1981, Chapter 95). Minn. Stat. §144.55, subd. 3, as amended, requires the Commissioner to use, as the minimum licensure standards, the federal hospital certification regulations. However, while this provision limits the Department's ability to

promulgate licensure standards for hospitals, the specific requirement relating to the development of rules in this area, contained in Minn. Stat. §144.573, makes it clear that these rules would be applicable to hospitals that opt to retain pets on the premises.

The provisions of Minn. Stat. §144.573 and §144A.30 require that the Department develop "reasonable rules as to the care, type and maintenance of the pet". As will be discussed in greater detail below, the Department believes that the proposed rules fall within the statutory limitations. The Department feels that these rules will not create barriers to the keeping of pets in health care facilities but rather, will assure that reasonable limits will be maintained in facilities keeping pets on the premises. These limits are necessary to fully protect the interests and well-being of residents residing in the facilities. The Department has attempted to develop a rule which provides a balance between the therapeutic and social benefits gained by keeping pets in a health care facility and the problems that could result, e.g. noise, health and sanitary considerations. The rule places heavy responsibility upon the operators of the facility to assure that pets are properly maintained and that the needs of residents of the health care facility, which must be the most important consideration, are not jeopardized. Since the Department is charged with the responsibility of protecting the needs of residents living in a health care facility, the primary focus of the rules must be concerned with the impact that allowing pets in the facility would have upon the health and safety of the residents. The rules are designed to assure that reasonable and appropriate safeguards are implemented without unduly limiting the therapeutic benefits of having pets on the premises.

Specific comments

> A. Definition. As used in 7 MCAR S 1.042, "health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or Minnesota Statutes, sections 144A.01 to 144A.17.

Since the provisions of this rule will apply to all health care facilities, it was necessary to provide a definition to assure that the applicability of the rule is clearly understood.

> B. Written policy.
> 1. Every health care facility shall establish a written policy specifying whether or not pet animals can be kept on the facility's premises.
> 2. If pet animals are allowed to be kept on the premises, the policy must:
> a. specify whether or not individual patients or residents will be permitted to keep pets; and
> b. specify the restrictions established by the health care facility regarding the keeping of pet animals.
> 3. This policy must be developed only after consultation with facility staff and with patients or residents, as appropriate.

The provisions of Minn. Stat. §144.573 and §144A.30 do not impose a mandatory requirement on a health care facility to allow pets to be kept on the premises. Therefore, each health care facility will be required to make a decision as to whether or not pets will be allowed on the premises. Section B.1. requires that each health care facility establish a written policy specifying whether or not pet animals can be kept on the premises. The establishment of the written policy will assure that residents and prospective residents are aware of the facility's decision on this matter. In addition, the establishment of the policy will provide an assurance that this issue has been carefully considered by the licensee of the health care facility. Section B.3. requires that the development of the policy be based on consultation with the facility staff and with the facility's residents and patients, as appropriate. The Department believes that the need for obtaining input from staff and residents

is important. Numerous articles have promoted the benefits to be gained by allowing pets to be kept on the premises of a health care facility. However, despite these benefits, it must also be kept in mind that the keeping of pets on the premises will involve work and will require that staff supervise the care of the pets. In addition, the health and sanitary aspects of having pets housed in a health care facility must also be carefully evaluated. Residents may be allergic to certain types of animals and, since the primary goal of a health care facility is to promote and protect the health of its residents, these concerns cannot be ignored. In addition, staff members and residents may have adverse feelings about allowing pets on the premises on a permanent basis. Residents may not like pets and these concerns must be weighed in reaching a decision in this matter. Staff may not wish to be involved in the care of the animals or may feel that animals will not be appropriate or beneficial in the facility. Since the policy finally adopted by the facility will be a standard of conduct to be followed by facility staff and residents, the Department believes that this rule requiring staff and resident input is appropriate and necessary to assure that the feelings and concerns of staff and residents are considered.

If the health care facility allows pets to be kept on the premises, Section B.2. will require the policy to specify whether or not individual residents will be allowed to keep pets and also specify the restrictions established by the facility regarding the keeping of the pets. Residents and prospective residents have the right to be informed if the facility will prohibit or permit them from keeping individual pets in the facility. This position should be known to avoid any misunderstanding as to the nature of the facility's policy and this issue should also be carefully considered by any facility that will allow pets to be kept on the premises. The Department has approved a number of

specific waiver requests which, with the approval of the facility, allowed individual residents to retain pets in the facility. These requests were primarily based on the therapeutic benefit that the retention of the pet would provide to the individual resident. Residents and staff must also be aware of any restrictions established by the facility regarding the keeping of pets. These restrictions would generally relate to the types and numbers of pets, areas where pets will be permitted and the controls established by the facility to assure that pets do not interfere with the residents' health and safety. The development of these restrictions will also assure that the facility has appropriately considered the various issues regarding the keeping of pets on the premises. The development of the policy required by Section B. will provide the mechanism for a careful evaluation of the positive and negative factors of keeping pets in the facility. The policy will provide the means to assure that residents and staff are aware of the facility's decision and, if pets are permitted, the restrictions governing the keeping of pets on the premises.

> C. Conditions. If pet animals are allowed to be kept within the facility, the following requirements must be met;
>
> 1. A written policy must be developed which specifies the types of pet animals that are allowed to be kept within the health care facility.
>
> 2. The policy required by 1. shall be developed in consultation with a veterinarian and a physician to assure that pets which, in their opinion, present a higher risk of transmitting diseases to human beings are not allowed to be kept within the facility.

Section C. of the proposed rule establishes the conditions that must be followed by any facility electing to maintain pets animals on its premises. This section contains subsections relating to the types of pet animals, the health of the pet animals and the facility's responsibility for the care of the pets.

While the Department does not dispute the beneficial and therapeutic effects

that pet animals could provide in a health care facility, the Department must also assure that the health, safety and well-being of the residents is not threatened by allowing pets to be kept on the premises. The conditions contained in this section establish reasonable controls to be followed and, at the same time, do not create barriers which would unreasonably preclude the keeping of pets in the facility.

The first two subsections relate to the types of animals that will be allowed in the health care facility. The rule will require that a specific policy be developed which identifies the types of pets that can be retained and also requires that this policy be developed in consultation with a veterinarian and a physician.

The types of animals that could be retained in a health care facility is virtually unlimited. For that reason, it will be necessary for the facility to carefully consider this issue and then, once a decision is made, to inform the residents. In determining the types of pets which will be allowed to be kept in the facility a number of factors must be considered: the types and needs of the residents, the physical surroundings, the costs of caring for the pets, the willingness and ability of staff to care for or to monitor the care of the pets; and the risks associated with keeping pets on the premises. Any pet selected must also be compatible with the residents and must not pose a health or safety factor. The animals must be emotionally stable and adaptable to the purpose that it will serve in the facility, e.g. will the animal come into close contact with residents, will the animal be handled by many individuals, etc.

Since the types of animals available for pets are numerous and since the

Department cannot predict the purpose that an animal will serve in a particular facility, it would not be feasible for the Department to develop a specific listing of "approved" pets. In fact, while a dog or cat may be appropriate in a particular facility, differences in the size of another facility or the characteristics of the resident population could make the dog or cat completely unsuitable as a pet in another facility. For these reasons, the rule will require that this policy be developed in consultation with a veterinarian and with a physician. The veterinarian has the expertise to advise the facility as to the appropriateness of different types of animals to be considered as well as possibly suggesting various breeds of animals that would be suitable to a specific facility. The physician, along with the veterinarian, would also be able to inform the facility of those pets that pose a higher risk of transmitting diseases to human beings. Veterinary medicine has greatly reduced the risks of disease transmission to human beings by developing various immunizations and providing proper treatment of the animals. However, these risks should not be minimized and expert advice will be important in properly selecting the type of pet to consider. The physician would also identify problems that the keeping of pets on the premises might create. Facility residents, especially those in nursing homes, are at a greater risk of disease than the average population. Residents could have allergies or other respiratory diseases that would be compounded if certain pets were retained. For that reason, the impact that particular types of pets might have on the resident population must be considered. The physician and the veterinarian will be able to provide the necessary advice in these important areas and this will help to assure that an appropriate type of pet animal is selected.

3. All pet animals must be in good health.

4. The health care facility shall ensure that pets are examined and receive any necessary immunizations or treatments in accordance with a veterinarian's recommendations.

5. A copy of the veterinarian's recommendations as well as records of all examinations, treatments, and immunizations shall be retained in the health care facility.

The next three conditions are required to assure that pets are kept in good health. Since residents may have less than optimum physical health, the Department is concerned with the resident's susceptibility to animal transmitted diseases and infections. It is for this reason that any pet animal brought into the facility must be healthy in order to reduce the possibility of any disease transmission to the residents. The rules also require that the health care facility assume the responsibility for assuring that the pet is examined and receives any necessary immunizations in accordance with the veterinarian's recommendation. The veterinarian has the training and expertise to assure that pets are in good health and to establish a schedule of regular examinations and treatments to maintain a pet in a healthy condition. It would only be through these regular examinations that a determination as to the pet's health status could be ascertained. These examinations and treatments will protect residents from the possibility of receiving an infection or disease from the pet animal.

Subsection 5 will require that the facility maintain a record of the examinations, treatments and the veterinarian's recommendations. This documentation will be necessary in order to verify the facility's compliance with the rule as well as to assure that the facility is fully aware of its responsibility in maintaining the pet in good health.

6. Regardless of the ownership of any pet, the health care facility shall assume overall responsibility for any pets kept within or on the premises of the facility.

The sixth condition relates to the facility's responsibility for the care and maintenance of the pet. The Department believes that it is necessary to require the facility to assume this responsibility in order to assure that the interests of the residents are protected as well as to assure that the pet is properly cared for. The facility is responsible for the care of the residents and this responsibility also includes assurances that the rights and interests of all facility residents are protected. Thus, even if residents are permitted to keep their individual pets on the premises, the facility must assume the responsibility for any pets kept on the premises. Even if the resident cares for the pet, the facility must monitor the provision of the care and assure that the resident's pet does not interfere with the rights of other residents or disrupt the activities of the facility. If the facility did not assume this control, it would not be possible to properly monitor the pets in the facility and, if other residents also kept pets, problems in controlling the pets would occur. An individual will, of course, be permitted to care for his or her pet. However, the facility must have the overall responsibility and control over any pet kept in the facility. It will also be important to assure that the welfare of any pet animal is also taken into consideration. Since the facility will be required to assume the responsibility for the pet animal, facility staff will be in a position to monitor the care and feeding of the pet. This would include the furnishing of suitable living quarters, adequate nutrition, and the avoidance of abuse. Since the facility will have the option to allow pets to be kept on the premises, the Department does not believe that this rule is unreasonable. The facility is responsible for the well-being of all residents and since the retention of pets on the premises could jeopardize that well-being, the facility must be in the position of overall responsibility to curtail any

problems that might develop. Even in situations when a pet is owned by a specific resident, the Department does not consider this rule to be a violation of that resident's right. The facility will be required to develop policies relating to the keeping of pet animals and the responsibility of the facility should be clearly stated within that policy. The policy will be available for the resident's review and, if a resident wishes to bring a pet into the facility (assuming this would be permissible under the facility's policy), the resident would be notified of this restriction. As previously mentioned, the rule is not intended to exclude or limit a resident's involvement with the pet. In fact, the interaction between the resident and a pet is one of the benefits to be gained by allowing pets in the facility. The rule merely states the principle that since the facility staff has responsibility for the residents, this responsibility extends to all aspects of the facility's programs.

> 7. The health care facility shall ensure that no pet creates a nuisance or otherwise jeopardizes the health, safety, comfort, treatment, or well-being of the patients, residents, or staff.

Subsection 7. provides some specific examples of the facility's responsibility if pets are permitted to be kept on the premises. Depending on the type of pet selected, it is not inconceivable that a particular pet could become a nuisance. Noise, odor and unrestricted access to resident areas are examples of problems that could result from keeping pets on the premises. Some residents may react adversely to the keeping of pets or certain types of pets on the premises. The facility must consider the needs of these individuals and assure that the keeping of pets would not upset these individuals. Another factor that is of critical importance is any impact that the keeping of pets would have on the health and safety of the facility's residents. Residents

could be allergic to certain pets or may have respiratory problems that could be complicated if pets are kept on the premises. While restricting pets to specific areas may solve this problem, the health of the residents must be carefully considered. Pets that have freedom to roam around the facility also become an obstacle for residents, especially those residents with visual handicaps or whose ability to walk is limited. Staff reaction must also be considered since pets could create similar problems for staff members. The facility will have to assure that appropriate measures are taken to prevent pets from becoming a nuisance and to assure that the interest of staff and residents are protected.

> 8. A facility employee shall be designated as being responsible for the care of all pet animals and for ensuring the cleanliness and maintenance of cages, tanks, and other areas used to house pets.

In order to assure that the facility's responsibility is effectively carried out, it will be necessary to require that a facility carefully plan its program and provide an organized mechanism to implement the program. For that reason, the Department believes that it is necessary for a specific facility employee to be designated to care for the pet animals. The designation of a specific individual will assure that appropriate accountability is maintained and will also provide a uniform approach for caring for the pets and monitoring the pets in the facility. In no circumstance should pets be permitted in a facility unless provisions for adequate supervision and management are in place. The individual designated by the facility will be assigned the responsibility for the day to day care of the pets. While specific chores for caring for the pet can be delegated, the staff member will be responsible for assuring that these chores are completed. In the event that these chores are not completed, it will be the responsibility of

the staff member to take the necessary steps. It is obvious that the keeping of a pet on the premises could lead to problems with sanitation, particularly with hair, food and body wastes. The rule requires that the facility be maintained in a clean and sanitary condition and since pets could create problems, the designated individual will be required to assure that these problems do not occur. The welfare of the pet animal must also be considered and the selection of one individual to monitor the care of the animal will help to assure that the animal is fed, groomed and appropriately cared for. This individual will also be responsible for following the facility's policy and procedures concerning the keeping of pets and for assuring that the provisions of the policy and procedures are implemented.

> 9. Except for guide dogs accompanying a blind or deaf individual, pets shall not be permitted in areas where food is prepared, served, or stored; in dishwashing areas; dish storage areas; in medication storage areas; in clean sterile supply storage areas; in nurses' stations; or in any other areas where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety, and well-being of patients or residents.

The last part of the rule identifies areas where pets will not be permitted. These restrictions, which do not apply to guide dogs, prohibit pets from going into areas where proper sanitation is especially important. The rule restricts pets from areas where food is prepared, stored or served, from dishwashing areas and dish storage areas. These restrictions are necessary to avoid any potential of contamination of medications and of the clean or sterile supplies used in caring for the facility's residents. The final portion of this rule would restrict pets from other areas in the facility where cleanliness and sanitary precautions are necessary to protect the health, comfort, safety and well-being of the residents. While this provision is somewhat subjective, the Department believes that this particular provision

is necessary. The rule applies to all health care facilities and special circumstances applicable to one facility may not apply to the others. The facility will have to evaluate the types of services provided as well as the needs of the residents and if additional restrictions are necessary, such limitations would be included in the facility's policy. For example, a nursing home might have a specific room for physician or nursing treatments, and it would be necessary to restrict pets from having access to these areas. Some facilities might want to restrict pets from going into resident rooms or from entering rooms used by specific individuals. Such considerations must be left up to the facility since it is not possible to list all such areas within the context of this rule.

7 MCAR §1.043 Preventing abuse and neglect of vulnerable adults in facilities licensed or certified by the Department of Health

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7 MCAR §1.043 Preventing abuse and neglect of vulnerable adults in facilities licensed or certified by the Department of Health

General comments

The provisions of Minn. Stat. §626.557 establish the requirements relating to the reporting and investigation of suspected cases of abuse or neglect in health care facilities. The statute identifies categories of individuals mandated to report suspected cases of abuse or neglect, establishes reporting procedures and requires investigation by this Department, other licensing agencies, local welfare agencies and law enforcement agencies. Specific requirements are imposed on health care facilities to develop abuse prevention plans for the facility and for each resident and to establish an internal system for investigating and reporting suspected incidents of abuse or neglect. The provisions of this rule relate to the last three areas.

Specific statutory authority for the development of these rules is contained in Minn. Stat. §626.557, subdivision 16(b). In addition, the Department's general statutory authority to promulgate rules relating to the operation of a health care facility contained in Minn. Stat. §144.56 and in Minn. Stat. §144A.08 also provides a basis to support the promulgation of these rules. The Department has included a reference to this proposed rule in the boarding care home and nursing home licensure rules, 7 MCAR §1.046 M. and in the licensure rules for supervised living facilities, 7 MCAR §1.392 N. The Department considers the provisions of 7 MCAR §1.043 to be part of the licensure requirements for these facilities. In addition, the Department will require that a licensed hospital and other facilities certified by the Department, e.g., a home health agency, comply with the provisions of these rules. The definition of "facility" contained in Minn. Stat. §626.557, subd. (2)(a) states, in pertinent part:

> (a) "Facility" means a hospital or other entity required to be licensed pursuant to sections 144.50 to 144.58; a nursing home required to be licensed pursuant to section 144A.02; ... or any entity required to be certified for participation in Titles XVIII or XIX of the Social Security Act, 42 U.S.C. 1395 et. seq.

The above definition clearly establishes that hospitals and certified agencies are subject to the provision of this law and these rules.

The provisions of the law require that all licensing agencies investigate any reports of suspected abuse or neglect. In addition, licensed facilities are required to develop the abuse prevention plans and the internal reporting mechanism in accordance with the rules promulgated by the licensing agencies. All supervised living facilities and some of the other health care facilities licensed by this Department are also required to obtain a program license from the Department of Public Welfare. In these instances, such facilities will be required to comply with the provisions of this Department's rules and with the Department of Public Welfare's rule. The Department does not believe that the joint licensure of these facilities is an unnecessary duplication nor does the Department believe that compliance with the two sets of rules will create a burden for the jointly licensed facilities. It must be kept in mind that the focus and responsibility of each licensing agency as it relates to the requirements to be followed by a facility is different. For that reason, the investigative activities of each Department will differ. For example, if a report for an alleged instance of abuse in a supervised living facility is received, the investigation will determine if the report is true and identify any violations of the licensure rules. Since the licensure rules of the two agencies are not similar, it would be possible to find a violation of one agency's rules while not finding a deficiency of the other agency's rules. The Department of Health's rules for supervised

living facilities focus on the health services provided to residents and on the provision of a safe and sanitary environment. The rules address areas which include the proper upkeep of the physical plant, environmental considerations, nutrition and food handling practices, provision of health services, and medication handling procedures. The rules of the Department of Public Welfare focus on the type and appropriateness of the programs offered to the residents in these facilities; for example, the programs for the mentally retarded, chemically dependent, mentally ill or physically handicapped.

The rules developed by the two agencies relating to the implementation of the VAA do not create any conflicts for the implementation of these provisions in jointly licensed facilities. The Department of Public Welfare presented its proposed rules to a public hearing on June 15, 1982. Those rules outlined the requirements to be met by the DPW licensed facilities for implementation of the provisions of the law. A comparison of the DPW proposed rule (attached as Appendix B) and this rule indicates that a conflict in the requirements does not exist. The proposed DPW rule, 12 MCAR §2.010 C. relates to the development of the program abuse prevention plan. The rule requires that the programs governing body develop this plan; and that the plan be based on an assessment of the population, the physical plant and the environment. The plan must also include the description of the specific steps to be taken for minimizing the risk of abuse and include a timetable for the implementation of any corrective action. The Department of Health's proposed rule is similar. The rule will require the development of this plan based on the assessment of the population, environment and physical plant. The Department's rule does require that the plan be developed by

an interdisciplinary committee selected by the administrator as opposed to DPW's requirements that the rule developed by the facility's governing body. However, the Department does not believe that this is a conflict. Any policy developed by the health care facility must be approved by this facility's governing body. The Department's requirement that the plan be developed by an interdisciplinary committee could easily be accomplished by the facility. The committee could develop the plan and then present the plan to the governing body for approval and adoption. The Department's rule also requires that the plan be based on an assessment of the population, physical plant and environment. While the assessment factors listed in both rules are not identical, a conflict in these requirements is not created. Both rules require an identification of the specific steps to be taken to correct or alleviate the conditions identified by the assessment that make residents or patient susceptible to abuse and the rules also require that a timetable for correction be included in the plan. The rules also require an annual review of the plan.

The requirements relating to the development of the individual abuse prevention plans contained in the rules are also similar. Both sets of rules require that these plans be developed by an interdisciplinary team consisting of persons involved in the care of the resident and that these plans be based on an assessment of the individual's susceptibility of abuse. Both rules require that this plan be developed as part of the initial plan of care for the patient or resident; however, the Department of Health's rule does not mandate that this plan actually be incorporated as part of the patient's or resident's plan of care. Both rules will require at least an annual review of this plan.

The third major portion of the two rules relates to the development of the internal reporting mechanism to be implemented by a facility. Again, no major conflicts are found in the two rules. Both rules require the development of this mechanism in each facility. The rules require that an individual responsible for reporting cases of suspected abuse or neglect to outside authorities be clearly identified and also require the identification of the individual responsible for the internal investigation. Both rules require that the records be maintained regarding any investigation and the contents of these records are identical. Both rules will also require that the information obtained during the course of an investigation be sent to the agencies. Both rules require that the facility inform residents of the existence of the internal reporting mechanism, and finally, both rules require staff orientation and inservice training to assure that the facility employee's are fully informed of the reporting requirements of the facility's abuse plan, individual abuse plans and the internal reporting mechanism.

The rules were developed in consultation with personnel from the Department of Public Welfare. As noted above, the provisions of the rules are quite similar and neither agency feels that difficulties in implementation will arise in the jointly licensed facilities. The differences that do exist are the result of the differing focus and responsibilities of the agencies and compliance with these provisions will be required. However, such compliance will not result in a facility being forced to comply with one provision at the risk of being in noncompliance with another.

The Department's rule must also be read in conjuction with the provisions of the statute. The Department did not feel that it was necessary to incorporate the provisions of the VAA into this rule since many of the statutory provisions,

e.g. the reporting requirements, are clearly delineated in the law. All facilities have previously been furnished with a copy of the law and informed of the Department's position regarding compliance with law. A copy of this notice is attached as Appendix C.

Specific comments

> A. Definition. As used in 7 MCAR S 1.043, "facility" has the meaning given it in Minnesota Statutes, section 626.557, subdivision 2, clause (a).

As mentioned above, the provisions of this rule will apply to all facilities licensed or certified by the Department of Health. This definition is necessary to assure that the applicability of these provisions is clearly understood. As defined in the statute, of the term "facility" includes the facilities licensed or certified by the Department.

> B. General requirement. A facility shall comply with Minnesota Statutes, section 626.557.

Under the provisions of Minn. Stat. §626.557, each facility will be required to comply with the provisions of that law. The law specifies a number of requirements which are not subject to rule-making, e.g. the definition of mandated reporters, the reporting requirements, the contents of the report, etc. The rule is necessary to assure that a facility is aware of these requirements and is in compliance with this law.

Facility abuse prevention plan

Minn. Stat. §626.557, subd. 14(a) provides as follows:

> Each facility shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan as are promulgated by the licensing agency.

The proposed rules contained in section C. require the development of this plan and specify the factors to be met during the plan development and its implementation.

> C. Facility abuse prevention plan.
> 1. Every facility which admits vulnerable adults on an inpatient basis shall develop and implement a written plan to prevent abuse in the facility. The plan must be designed to identify and remedy conditions in the population, environment, and physical plant that make patients or residents susceptible to abuse.

This section requires the development of the facility abuse prevention plan. The rule will apply to facilities which admit individuals on an inpatient basis. This would include hospitals, nursing homes, boarding care homes and supervised living facilities. The rule would not apply to home health agencies or other facilities which do not admit individuals on an inpatient basis. The Deparment believes that it would not be reasonable or appropriate to require the development of a facility abuse plan in these facilities since residents or patients are not admitted. The statute and the rule is intended to apply to those facilities which provide services to individuals on an inpatient basis since it requires an assessment of the population, physical plant and environment. Facilities which do not admit individuals would not have a facility population nor would there be a concern over environmental and physical plant factors since an individual's contact with these facilities would be limited.

The rule will require that a facility admitting residents develop a plan which is designed to identify and remedy conditions that would make residents or patients susceptible to abuse. This language parallels the statutory provisions.

> 2. The plan must meet the following requirements:
> a. It must be developed by an interdisciplinary committee selected by the administrator of the facility.

Subsections 2.a. - e. specify the requirements to be followed in the development of the facility abuse prevention plan. Subsection 2.a. will require that the plan be developed by an interdisciplinary committee selected by the facility administrator. In order to assure for a thorough analysis of the various factors to be considered in the development of this plan - the population, physical plant and environment, it is necessary to require that individuals with differing perspectives and areas of expertise work together. Nursing and other direct care staff, such as social workers, rehabilitation services personnel, etc., would be able to provide input into the assessment of the population as well as to comment on how the physical plant characteristics and environment impact on the facility's population. Support service staff, especially housekeeping and maintenance personnel, would be aware of the physical plant and environmental limitations and would be able to specifically identify areas of concern and to suggest methods of alleviating any problems. Administrative staff would be able to comment on the organizational arrangements within the facility as well as to identify concerns relative to the effective and efficient operation of the facility. In addition, this category of individuals would be in a position to implement the changes that may be required or to suggest alternatives to the facility's operation. The above examples demonstrate the need to assure that the final facility abuse prevention plan is based on a broad perspective of input in order to develop a plan that will effectively identify any areas of concern as well as to provide a work plan to eliminate any problems.

> b. It must be based on a written assessment of the population, environment, and physical plant. The assessment must address areas such as the following: the inability of patients or residents to act for themselves because of physical, mental, or emotional impairments; the possibility that patients or residents will injure themselves or others because of their physical, mental,

> or emotional conditions; admission policies and continued stay policies; visitation policies and visitor restrictions; the qualifications and training of staff to meet identified patient and resident needs; the adequacy of programs or services provided in the facility; the orientation and ongoing educational programs offered to employees; patient's and resident's room assignments; the physical conditions of the facility such as lighting levels, furniture placement and decor, and the location and environs of the facility.

Subsection 2.b. requires that the plan be based on a written assessment of the population, environment and physical plant. This provision is directly related to the requirement contained in the statute. The remaining portion of this rule identifies areas to be addressed in the development of this assessment. The factors listed are not intended to be either all inclusive or all exclusive; rather, the areas identified in the rule are representative of the type of specific items to be addressed and considered during the assessment process. The provisions listed deal with factors relating to the population, the physical plant and the environment. Due to the differing types of facilities covered by this rule, it would not be possible to list all possible factors to be considered. However, in order to provide some specific criteria, the proposed rule was developed to furnish facilities with the general content of the facility abuse plan. The fact that each type of facility will have different populations and different physical plant and environmental concerns also emphasizes the need for having the assessment conducted by the interdisciplinary committee. As previously mentioned, the varying perspectives of the individual committee members will help to assure that many factors are addressed.

The type of population in a facility will be one of the major factors to be addressed. If residents are not able to act for themselves, it will be necessary to identify this and to develop a method to protect these individuals

from abuse. Similarly, the tendency to abuse others or for self-abuse must be identified and measures taken to prevent or to alleviate such possibilities. The facility will also want to evaluate its admission policies and continued stay policies to clearly identify the resources of the facility and to determine the limits to be placed on the admission of various categories of individuals. A facility may not be staffed to supervise abusive residents or may not have the physical facilities to isolate abusive residents. Thus, it may be necessary to amend or to develop policies which clearly identify the capacity of the facility to provide care to these types of residents. Another area of conern would be the visitation policies of the home. If visitors are suspected of abusing residents, limits might have to be placed on individuals permitted to visit a resident or in the areas where visits will be permitted. Staff qualifications and training will also have to be evaluated to assure that staff is aware of its responsibilities and properly trained to carry them out. The programs and services provided in the facility might have to be changed in order to more effectively deal with residents who may be abusive or to provide a means to eliminate the potential for abuse. Orientation and inservice training of staff should be evaluated to assure that an awareness of potential problems with residents is provided and to assure that staff is able to effectively deal with an incident of abuse. Physical plant conditions must also be evaluated to eliminate any areas which could create an area where supervision would be restricted or to enhance the surroundings to eliminate the potential for agressive behavior. For the same reasons, the location and surrounding environment must be evaluated to ascertain whether there are factors that could increase the potential for abuse.

The Department will not be in a position to qualitively judge the assessment completed by the facility. However, the Department will want to see evidence of the written assessment and an indication that the factors relating to the population, physical plant and environment has been considered. The factors identified in subsection 2.b., if followed by the facility would constitute an acceptable assessment.

> c. It must include a written plan to correct or alleviate the conditions identified by the assessment that make patients and residents susceptible to abuse.
> d. Its plan to correct the identified conditions must specify the action to be taken and set a schedule for completing the corrections.

Subsection 2.c. and d. are also based on the requirements of the statute. Once the assessment is completed, the statute requires that the plan contain "specific measures to be taken to minimize the risk of abuse". Subsection c. will require that the facility develop a written plan for correction of any conditions identified by the assessment which make patients and residents susceptible to abuse. This written listing will identify the problems and will help the facility to set priorities for making the necessary corrections. Subsection d. will require that specific steps for correcting the problems be clearly identified and will require that a schedule for completion be established. These two requirements will assure that the "specific measures" called for in the statute are contained in the facility's abuse prevention plan.

> e. It must be reviewed at least annually by an interdisciplinary committee and revised if necessary. The date of each review must be recorded on the plan.

Since the population, physical plant and the facility's environment are subject to change, the Department believes that it is necessary to assure that the facility abuse prevention plan is reviewed on at least an annual basis.

This review will determine that the initial assessment is still appropriate and will also provide a means to monitor the facility's compliance with areas identified for change. Revisions in the plan will be required if the committee believes that additional changes are necessary. In order to provide a basis for measuring a facility's compliance with these provisions, the date of the review must be recorded on the plan.

Individual abuse prevention plan.

Minn. Stat. §626.557, subd. 14(b) provides as follows:

> Each facility shall develop an individual abuse prevention plan for each vulnerable adult residing there. Facilities designated in subdivision 2, clause (b)(2) shall develop plans for any vulnerable adults receiving services from them. The plan shall contain an individualized assessment of the person's susceptibility to abuse, and a statement of the specific measures to be taken to minimize the risk of abuse to that person. For the purposes of this clause, the term "abuse" includes self-abuse.

The statute applies only to those facilities which would admit patients or residents on an inpatient basis. Since the statute specifically ties in the requirement that facilities develop plans for each vulnerable adult "residing there", facilities, such as home health agencies which do not provide living arrangements, would be excluded from this provision. It is the Department's position that the term "residing" does not require an individual to take up residence in the facility. The purpose of this requirement is to assure that persons admitted to a facility are assessed to ascertain their susceptibility to abuse and to assure that specific measures are taken to minimize this risk of abuse. The Department believes that this assessment must be completed for any individual admitted to a facility even if the stay would be relatively a short period. Thus, hospitals would be subject to the provisions of Minn. Stat. §626.557, subd. 14(b) and these rules. In order to

avoid any confusion, the rule clearly states that facilities "which admit individuals" are required to comply with these provisions. If the Department's interpretation is not accepted, the provisions of this particular section of the law would become meaningless and difficult to enforce. As previously mentioned, the law is designed to assure that vulnerable adults are protected from the possibility of abuse and neglect. The law clearly is applicable to all facilities licensed by the Department and in order to provide for the greatest amount of protection, the development of the individual abuse prevention plans should be required in facilities which admit individuals on an inpatient basis. If the term "residing" would be construed to imply "residence" in a facility, the enforcement of the law would be difficult. In order to verify the need to develop a plan, it would be necessary to determine if residence will be changed to the facility. In many cases an individual may stay in a facility for an extended period of time without ever intending to take up residence in that facility. The Department's interpretation would conform to the legislative intent as stated in subdivision 1 of the law. That statement of public policy provides as follows:

> The legislature declares that the public policy of this state is to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to abuse or neglect; to provide safe institutional or residential services or living environments for vulnerable adults who have been abused or neglected; and to assist persons charged with the care of vulnerable adults to provide safe environments.

This policy statement implies that the legislature was concerned over the provision of both "institutional" as well as "residential" care. The Department's interpretation of the coverage and applicability of this particular subdivision conforms to that policy statement and assures that the intent

of the legislature is carried out.

> 1. Every facility which admits vulnerable adults on an inpatient basis shall set written policies and procedures governing the development of written individual abuse prevention plans in accordance with Minnesota Statutes, section 626.557, subdivision 14, clause (b).

This provision specifies the types of facilities which will be required to develop the policies and procedures governing the development of the individual abuse prevention plans. The rationale for this provision was discussed above. The rule will also require that these facilities develop the necessary policies and procedures required to implement the provisions of the statute.

> 2. The policies and procedures must meet the following requirements:
>
> a. They must establish the mechanism for developing the individual abuse prevention plans.
>
> b. They must require that an interdisciplinary team conduct for each patient or resident an initial individual assessment that addresses the individual's susceptibility to abuse and the measures to be taken to minimize the risk of abuse to that resident.
>
> c. They must require that the plan is developed as part of the initial plan of care for the patient or resident.
>
> d. They must require at least an annual review of the plan as long as the patient or resident stays in the facility.
>
> e. They must require that the individual's plan be revised whenever necessary.

Section 2 specifies the requirements to be met in developing the policies and procedures relating to the individual abuse prevention plans. These five areas will assure that the mechanism for the development of the plan is in place, that the required assessment is conducted by appropriate individuals and provide for the timely development of the plan and for any subsequent review and revision.

Subsection a. requires that the facility develop the mechanism for developing the prevention plans. The law requires that an individual prevention plan be developed for each vulnerable adult; however, no specific mechanism is established

to govern the actual development of these plans. The Department has generally recommended that the individual abuse prevention plan be developed in conjunction with the plans of care for the patient or resident. This approach would avoid unnecessary duplication of effort and would help to assure that these considerations are raised during the inital phase of the care planning. However, the Department wanted to allow the facility the flexibility to establish its own mechanism for devising these plans. Thus, the rule will require that a mechanism be developed but the specific elements will be left to the facility.

Subsection b. will require that an interdisciplinary team conduct an assessment of the individual's susceptibility to abuse and develop measures to minimize any risk of abuse. The requirement for the assessment and the statement of specific measures is based on the statutory language. The Department believes that it will be necessary for the plan to be developed by an interdisciplinary team. The development of a resident's care plan is based on the expertise and perspective of the various individuals that will be involved in providing care to the resident. This broad perspective will also be required in the development of the abuse prevention plan to assure that a number of view points are considered. For example, the nursing staff will be aware of the resident's health and physical needs as well as the social and emotional needs of the individuals. The great frequency of contact with the individuals will also be important in ascertaining a resident's susceptibility to abuse. However, other direct care staff, especially social workers, rehabilitation personnel and activity directors will also have contact with the resident and will observe the resident's or patient's interaction with staff and other residents. This perspective will enhance the development of the plan and will assure that the fullest possible protection can be afforded to the resident.

Subsection c. will require that the plan be developed as part of the initial plan of care for the vulnerable adult. This requirement is necessary to assure that the plan is developed as quickly as possible by the facility staff. The licensure rules impose limits on the development of these plans and other health records and the development of these records is based on input from facility staff. At the time the initial care plan is developed, it is reasonable to expect the facility to be in a position to discuss the vulnerable adult's susceptibility to abuse and the measures to be taken to minimize abuse.

Subsection d. will require that the facility's policy provide for an annual review of the abuse plan. This requirement will be necessary to assure that the information in the plan is still based on the needs of the individual. The review of the plan could be incorporated into the reviews of the patient's or resident's plan of care.

The last subsection will require that the plan be revised whenever necessary. This provision is required to assure that as the patient's or resident's condition changes, the plan is revised to incorporate those changes.

> 3. The development, review, and revision of the individual abuse plans may be part of a patient's and resident's care plan.

Section 3 was included in the rule to assure that facility providers are aware that these abuse prevention plans can be incorporated into the existing care plans for patients and residents and that a new independent record need not be developed.

Internal reporting system

Minn. Stat. §626.557, subd. 15 provides as follows:

> Each facility shall establish and enforce an ongoing written procedure in compliance with the licensing

agencies' rules for ensuring that all cases of suspected abuse or neglect are reported promptly to a person required by this section to report abuse and neglect and are promptly investigated.

This statute requires that a facility establish an internal mechanism for reporting suspected cases of abuse or neglect as well as assuring that these incidents will be investigated. The proposed rule provides for the implementation of this mechanism.

1. The facility shall set up a mechanism to ensure that all suspected cases of abuse or neglect are reported to an individual mandated to report under Minnesota Statutes, section 626.557 and are promptly investigated by facility staff.

Subsection 1. follows the mandates of statutory provision and is included in order to provide clarity and notice as to the existence of this requirement.

2. The facility shall designate the person responsible for reviewing and investigating all suspected cases of abuse or neglect. However, if the person responsible for the review and investigation is suspected of committing abuse or neglect, the facility shall authorize another to conduct the review and investigation.

This rule will require the designation of an individual who will be responsible for reviewing and investigating all suspected cases of abuse or neglect. The Department believes that this rule is necessary to provide accountability for the conducting of any investigation as well as to assure that an operating mechanism has been established. The designated individual will be required to conduct the necessary reviews and investigations and the identity of this individual will be known to facility staff. The failure to identify a specific individual would result in confusion and reduce the effectiveness of the reporting system. For obvious reasons, the rule will require that another individual be responsible for reviewing any suspected cases of abuse or neglect in which the designated individual has been implicated.

3. The facility shall designate the person responsible for reporting all cases of abuse or neglect to the appropriate authority in accordance with Minnesota Statutes, section 626.557.

For reasons similar to those stated above, subsection 3 will require the facility to designate the person responsible for reporting all cases of abuse or neglect to the appropriate authority. The designation of the specific individual will assure for a more efficient operation of this system since the responsibilities of this individual will be clearly identified. The person designated under this subsection could be the same person designated under subsection 2 above.

> 4. The facility shall keep written records of reviews and investigations of suspected cases of abuse or neglect. These records must include a summary of the findings, persons involved, persons interviewed or notified, conclusions, and actions taken. A copy of the completed record shall be forwarded to the Office of Health Facility Complaints of the Department of Health.

Minn. Stat. §626.557, subd. 4 requires that a mandated reporter complete a written report and submit the report to the appropriate authority. The written report is to include the identity of the vulnerable adult and the caretaker, the nature and extent of the suspected abuse or neglect, any evidence of previous abuse or neglect, the name and address of the reporter and any other information that the reporter believes will be helpful in the agency's investigation. The proposed rule is similar in nature to the statutory provision in that the investigation records will provide the means to develop the report to the licensing agency. In order to assure that incidents of abuse or neglect are appropriately investigated, it will be necessary to maintain records of these investigations. The rules will require that the investigation records include a summary of findings made during the internal investigation, the persons involved, who was interviewed and notified, the conclusion made and the actions taken by the facility. The development of this record will assure that an appropriate investigation has been carried out. The rule will also require that a copy of this record be

furnished to the Department's Office of Health Facility Complaints. This record will be important to the Department's review since it will help to identify the nature of the abuse and neglect and to identify the individuals involved in either the incident or the investigation. The Office of Health Facility Complaints has been delegated the responsibility for reviewing and investigating violations of the Vulnerable Adult Abuse Reporting Act.

> 5. When a patient or resident is admitted, the facility shall explain its internal reporting mechanism to the individual or to the people legally responsible for the patient or resident. It shall also inform these people that anyone may report suspected cases of abuse and neglect directly to outside agencies.

This rule will require that admitted patients and residents be given an explanation of the facility's internal reporting mechanism as well as informed of their right to directly report to outside agencies any suspected case of abuse or neglect. The rule is necessary in order to assure that residents are aware of their rights and aware of the available mechanisms to address their concerns. The internal reporting mechanism is designed to provide for an expeditious review of any allegations of abuse or neglect and it will be important to assure that the availability of this mechanism is known. Hospitals and nursing homes are already required to have an internal grievance mechanism and the Department believes that the requirement of the VAA law and these rules could be incorporated into these grievance mechanisms.

> F. Notification. The facility shall inform its staff of the mandatory reporting requirements and of the responsibilities imposed on the facility staff by Minnesota Statutes, section 626.557. It shall also inform its staff that anyone may report suspected cases of abuse or neglect directly to the appropriate outside agencies. An explanation of the facility's abuse prevention plan, individual abuse prevention plans, and internal reporting mechanism must be part of the facility's orientation and inservice training programs.

The final section of this rule will require that each facility inform its

staff of the reporting requirements and other responsibilities imposed on the staff by the VAA law. Staff must be informed of their right to directly report to outside agencies any suspected cases of abuse or neglect. The rule will also require that the facility abuse prevention plan, individual abuse prevention plans and the facility's internal reporting mechanism be discussed as part of the facility's orientation and inservice training program. The rule is necessary to assure that staff is fully aware of its responsibilities and informed as to the reasons and purpose of the abuse prevention plans and the internal reporting mechanism. Facilities are required to provide orientation and inservice training and this additional information could be included into these ongoing programs.

7 MCAR §§1.044 T. and Y. Licensing procedures

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7 MCAR §1.044 T. Licensing procedures for boarding care homes

> T. Procedure for licensing of boarding care homes. ~~Any person acting individually or jointly with other persons who proposes to build; own; establish or operate a nursing home or a boarding care home shall submit a preliminary information questionnaire as furnished by the department at the time of initial contact as specified under MHD 44(s).~~ Application for a license to establish or maintain ~~such a facility~~ a boarding care home shall be made in writing and submitted on forms provided by the department. If the applicant is a corporation, the officers shall furnish the department a copy of the articles of incorporation and bylaws and any amendments thereto as they occur. In addition, out-of-state corporations shall furnish the department with a copy of the certificate of authority to do business in Minnesota. No license shall be issued until all final inspections and clearances pertinent to applicable laws and regulations have been complied with.

The proposed rule, 7 MCAR §1.044 Y., discussed below, establishes procedures for the licensing of nursing homes. Since the rule currently governing the licensure process, MHD(t), applies to both nursing homes and boarding care homes, it was necessary to amend that rule to limit its applicability to boarding care homes only. The changes made in MHD 44(t) provide the necessary clarification to assure that this section will apply only to boarding care homes. These changes were necessary to eliminate any possible confusion as to the applicability of the licensure procedures. In addition, the first sentence of the rule relating to the submission of a Preliminary Information Questionnaire, was deleted since this requirement is no longer followed in the licensure process.

7 MCAR §1.044 Y. Procedure for licensing nursing homes.

General comments

7 MCAR §1.044 Y. governs the issuance of licenses to nursing homes. The rule contains five major subsections: initial licensure, renewed licenses,

transfers of interests, license amendments and conditional or limited licenses. The promulgation of this rule is required as the result of changes in the licensing procedures contained in Minn. Stat. §144A.02 - .06. Those statutes expanded the Department's authority and responsibility as it relates to the review and processing of nursing home license applications. Detailed references to the statutes will be made in conjunction with the discussion of the subsections of this rule.

The proposed rules do duplicate statutory language in certain situations, e.g., the provision in Section 1. requiring the submission of architectural plans and specifications. It is the Department's position that the inclusion of these provisions is crucial to the ability of individuals affected by the rules to fully comprehend the licensure procedures. The primary source of information for both providers and consumers as to the requirements to be followed is the licensure rules and not the statutes. The addition of the statutory requirements with the regulatory requirements will result in a unified set of requirements.

Statutory authority

In addition to the general statutory authorization to promulgate rules contained in Minn. Stat. §144A.08, subd. 1., there are also specific statutory provisions requiring rule making. Minn. Stat. §144A.03, relating to the license application process states, in pertinent part:

> Subdivision 1. The commissioner of health by rule shall establish forms and procedures for the processing of nursing home license applications. ...

Minn. Stat. §144A.05, relating to the license renewal requirements states, in pertinent part:

> ...The commissioner of health by rule shall establish forms and procedures for the processing of license renewals. ...

Minn. Stat. §144A.06, subdivision 2, relating to the processing of transfers of interests in a nursing home requires that:

> The commissioner of health by rule shall prescribe procedures for relicensure under this section. ...

It should be noted that these proposed rules do not incorporate the statutory and regulatory provisions relating to the Certificate of Need program, Minn. Stat. §§145.832 et. seq. It is the Department's position that such a reference is not necessary since the ability of the Department to issue a nursing home license is contingent upon the granting of the Certificate of Need or a determination that the Certificate of Need Act is not applicable.

Specific comments

Initial licensure

> 1. Initial licensure. For the purpose of Y., initial licensure applies to newly constructed facilities designed to operate as nursing homes and to other facilities not already licensed as nursing homes. Applicants for initial licensure shall complete the license application form supplied by the department. Applications for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.
>
> To be issued a license, the applicant must file with the department a copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.
>
> If the applicant for licensure is a corporation, it shall submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. Applicants must submit these documents in order to be issued licenses. The department shall issue the initial license as of the date the department determines that the nursing home is in compliance with Minnesota Statutes, sections 144A.02 to 144A.16 and 7 MCAR SS 1.044-1.072, unless the applicant requests a later date.

Definition of "initial licensure"

The first sentence of the rule contains the definition of "initial licensure". While many of the licensure procedures relating to initial licensure are also applicable to processing renewal licenses or transfers of interests, the distinction between the various procedures is required since differing time frames for the submission of the applications are specified. Initial licensure will apply in situations when a facility is to be initially licensed as a nursing home. This would include the completion of a new building or the conversion of an existing facility to a nursing home. A change in the ownership of a nursing home would not be considered as initial licensure since the facility has previously been licensed as a nursing home. Initial licensure would also apply to a situation when a nursing home license is requested for a facility formerly licensed as a nursing home but which was not licensed as such at the time of the application request. Since a facility for which initial licensure is requested is not currently in compliance with the nursing home licensure laws and rules, additional time is required to process the application and to arrange for the proper clearances from the Engineering Services Section, Division of Health Systems, Department of Health and The Fire Marshal's Office, Department of Public Safety. Specific time frames applicable to the processing of initial licensure requests can be established only with the establishment of the category of initial licensure.

Application forms

The second section of the rule requires that the applicant for licensure complete the license application forms provided by the Department. These forms will contain the statutorily required information specified in Minn. Stat. §§144A.02 - .04. The information contained on the license application will include the following:

Minn. Stat. §144A.02:

- The address and legal property description.
- The location and square footage of the floor space constituting the facility.
- The level or levels of nursing care provided in the facility.
- Any conditions or limitations placed on the facility.

Minn. Stat. §144A.03:

- The names and addresses of all controlling persons and managerial employees.
- The designation of an individual responsible for dealing with the Department and upon whom service or orders and notices shall be made.

Minn. Stat. §144A.04

- Relationship of controlling persons to other nursing homes during a two year period prior to the application date.
- Relationship of the administrator and managerial employees to other nursing homes during a two year period prior to the application date.

Since the Department does not intend to request additional information beyond what is specifically required in the statute or in these rules, specific promulgation of this information would be a duplication of statutory language.

Time period for submission

The third sentence of this section requires that the license application be submitted at least 90 days before the requested date of licensure and that the applications be accompanied by the licensure fee. The ninety day time period is longer than the time periods provided for renewed licensing (60 days) or for relicensure after a transfer of interest (45 days). The Department believes

that the ninety day time period, which is necessary to provide sufficient time to complete the processing, would not present an undue hardship on the applicant. Since the facility is not currently licensed as a nursing home, it will be necessary to conduct a survey of the physical plant to assure that the building is in conformance with the rules of the Department. The survey could result in the issuance of orders which would need to be corrected prior to licensure. In addition, the facility would have to obtain a clearance from the Fire Marshal's Office. A survey would also be conducted by members of the Survey and Compliance Section, Division of Health Systems, to verify that the facility will be appropriately staffed, furnished and equipped to provide care and services in accordance with the licensure rules. Again, if orders are issued, the necessary steps to obtain the Department's final clearance will be necessary prior to issuance of the license. Since the survey staffs are also responsible for completing previously scheduled surveys of nursing homes and other health care facilities, sufficient time will be needed to assure that the initial surveys of a new facility can be scheduled without unduly disrupting the other activities of these staffs.

The Department will also be required to verify that the license application is complete. The addition of the provision requiring the disclosure of controlling persons and managerial employees has increased the complexity of this process. If the license is incomplete or if it is determined that the facility has included controlling persons or managerial employees who are prohibited from serving in a nursing home in accordance with the provisions of Minn. Stat. §144A.04, subdivision 4 and 6, the applicant will need time to rectify that situation. The ninety day period will provide time for the completion of these activities.

The ninety day time period should not create any problems for the applicants for licensure since these individuals would be in the best position to determien when the facility will be scheduled to open. The rule will help to eliminate situations that have occurred in the past when very short notice is provided to the Department. In some instances, facilities which have previously made arrangement to admit residents, have been forced to delay the admission until final clearances could be made by the Department.

It should be noted that approval of the facility for licensure could be obtained in less than 90 days if the necessary clearances are obtained. As will be noted below, the earliest effective date for licensure will be the date that the Department determines that the nursing home is in compliance with the licensure laws and rules. It should also be noted that the specification of the 90 day period in the rule would not compel the Department to issue a license within that period. Approval is contingent upon the Department's determination of compliance, and if such a determination cannot be made during this period, licensure would not be possible.

Licensure fees

The last part of the third sentence requires that the application be accompanied by the license fee prescribed in 7 MCAR §1.701, Exhibit I. The requirement for the licensure fee is found in the provisions of Minn. Stat. §144A.07.

Filing of plans and specifications

The second paragraph of section 1. requires the filing of architectural and engineering plans and specifications prior to the approval of the license. This provision is expressly required by Minn. Stat. §144A.03, subdivision 1., which states, in pertinent part:

> ...An application for a nursing home license shall include the following information:...
>
> (c) A copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in this state;...

While the language of the proposed rule does duplicate the statutory language, the Department believes that the rule is necessary in order to provide notice to affected persons as to the requirements to be met to obtain licensure. As discussed earlier, the licensure rules are the primary method used by the Department, providers and consumers to fully elaborate the provisions required of an applicant for licensure. The rule clearly specifies that the failure to have the necessary plans and specifications on file will result in a delay in issuing the initial license to operate the nursing home.

Articles of incorporation and bylaws

The first two sentences of the third paragraph require that a corporate applicant for licensure submit a copy of its articles of incorporation and corporate bylaws. Foreign corporations must also submit a copy of its certificate of authority to do business in Minnesota. This requirement is also based on the provisions of Minn. Stat. §144A.03, subdivision 1., which states:

> ...A controlling person which is a corporation shall submit copies of its articles of incorporation and bylaws and any amendments thereto as they occur, together with the names and addresses of its officers and directors. A controlling person which is a foreign corporation shall furnish the commissioner of health with a copy of its certificate of authority to do business in this state. ...

The inclusion of this provision will assure that the necessary requirements for licensure, both statutory and regulatory, are contained in one source.

Issuance of initial license

The last sentence in this section states that the earliest effective date of the initial license will be the date that the Department determines that the facility has completed the application process and has received all the necessary clearances required by statute and rule. This rule is necessary in order to inform the applicant that the application process must be completed before a license can be issued. This rule will eliminate situations where an applicant sets the date of opening of the nursing home without assuring that all necessary clearances have been obtained. The Department feels that this rule will eliminate any inconvenience to prospective residents who anticipated being admitted to the home on a specified date only to be informed that the license had not yet been granted. Since the rules require at least a 90 day period be provided to the Department, it is not anticipated that delays in approving the license will routinely occur. The rule is based on the provision of Minn. Stat. §144A.04, subdivision 1. which states:

> No nursing home license shall be issued to a facility unless the commissioner of health determines that the facility complies with the requirements of this section.

It should be noted that this proposed rule will not conflict with the provisions of Minn. Stat. §144A.04, subdivision 3. which provides the Commissioner the authority to temporarily waive compliance with a standard if the applicant can establish their good faith efforts to comply with those standards. In such an instance, the granting of the temporary waiver by the Commissioner would, in effect, be a decision that the facility is in compliance with the standards of the statute and the rule.

Renewed licenses

> 2. Renewed licenses. An applicant for license renewal shall complete the license application form supplied by the department. Applications must be submitted at least 60 days

before the expiration of the current license and must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I.

If the licensee is a corporation, it shall submit any amendments to its articles of incorporation or bylaws along with the renewal application.

If the application specifies a different licensed capacity from that provided on the current license, the licensee shall follow the procedures relating to license amendments specified in 6. If the changes are not approved before the current license expires, the renewed license will be issued without reflecting the requested changes.

Application forms

The first sentence of this paragraph requires that any applicant for renewed licensure complete the application forms supplied by the Department. This form will be almost identical to the form used for initial licensure which was discussed above. The provisions of Minn. Stat. §144A.02 - .04 apply to the issuance of renewal and initial licenses. However, the applicant for renewal will also have to indicate whether the facility's most recent balance sheet and statement of revenues and expenses has been submitted to the Department of Public Welfare. This requirement is already being met by applicants for renewed licensure. This information is specifically required by the provisions of Minn. Stat. §144A.05.

Time period for submission

The rule requires that an application for a renewed license be submitted at least 60 days prior to the expiration of the license. This time frame is necessary in order to provide sufficient time for the review and processing of the application and to verify the information contained therein. This time period does differ from the Department's previous practice which allowed applications to be submitted up to the expiration date of the license. This practice often resulted in a delay in issuing renewal licenses due to the accumulation

of large numbers of renewal applications. Under existing practices, the Department attempted to furnish applicants with the necessary forms at least 30 days prior to the expiration date. However, since the current renewal application for nursing homes contained only basic and limited information, completion of the form was not difficult. The new application form, on the other hand, is more detailed and will require additional time to complete and to process. The primary reasons for this is the requirement relating to the disclosure of controlling persons and managerial employees. The Department will need additional time to assure that applications are complete and to verify the information contained therein. It will be necessary to assure that the nursing home does not have individuals designated as a controlling person or a managerial employee in violation of the provisions of Minn. Stat. §144A.04, subdivisions 4 and 6. The sixty day time period will also provide time to contact the licensee if questions need to be answered and to cross reference the lists of controlling persons and managerial employees to update the Department's files.

Licensure fees

The rule will also require that each application for a renewed license be accompanied by the fee prescribed in 7 MCAR §1.701, Exhibit I. This requirement is mandated by the provisions of Minn. Stat. §144A.07.

Submission of amendments to articles of incorporation

The second paragraph of this section requires that a corporate applicant for renewed licensure submit any amendments to its articles of incorporation or bylaws. Minn. Stat. §144A.03, in addition to requiring that the applicant for initial licensure submit articles of incorporation and bylaws, also requires that amendments to these documents be submitted as they occur. This rule reminds the corporate licensee of this requirement.

Different license capacity

The last paragraph of this rule relates to situations when the renewal request specifies a different license capacity from the current license. It has been the Department's experience that applicants request additional changes in the level of care or in the number or location of beds at the time of license renewal. However, in many cases, the nature of the requested change necessitates a review unrelated to the renewal process and can also require the scheduling of surveys to ascertain whether the requested changes will be in compliance with the licensure rules. As a result, delays in processing and issuing the renewal license can occur. The proposed rule provides notice that such changes must be made in accordance with the amendment procedures specified in section 6. In addition, the rule provides that if changes cannot be approved prior to the expiration of a license, the renewal license will be issued without reflecting the changes. This rule will provide for a more efficient processing of the renewal applications and will help to eliminate any delays in the actual issuance of the renewal licenses.

Transfers of interests

General comments

Minnesota Statutes §144A.06 requires that a controlling person report to the Department the transfer of any interest held in the nursing home. Under conditions specified in that statute and in the proposed rule, the transfer of an interest could result in the expiration of the current license and require that the nursing home apply for relicensure. The proposed rule establishes the procedures to be followed in reporting transfers of interests and also prescribes the procedures to obtain licensure.

Minn. Stat. §144A.06 provides as follows:

144A.06 Transfer of Interests

Subdivision 1. Notice; expiration of license. Any controlling person who makes any transfer of a beneficial interest in a nursing home shall notify the commissioner of health of the transfer within 14 days of its occurrence. The notification shall identify by name and address the transferor and transferee and shall specify the nature and amount of the transferred interest. If the commissioner of health determines that the transferred beneficial interest exceeds ten percent of the total beneficial interest in the nursing home facility, the structure in which the facility is located, or the land upon which the structure is located, he may, and if he determines that the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the facility, the structure in which the facility is located, or the land upon which the structure is located, he shall, require that the license of the nursing home expire 90 days after the date of transfer. The commissioner of health shall notify the nursing home by certified mail of the expiration of the license at least 60 days prior to the date of the expiration.

Subdivision 2. Relicensure. The commissioner of health by rule shall prescribe procedures for relicensure under this section. The commissioner of health shall relicense a nursing home if the facility satisfies the requirements for license renewal established by section 144A.05. A facility shall not be relicensed by the commissioner if at the time of transfer there are any uncorrected violations. The commissioner of health may temporarily waive correction of one or more violations if he determines that:

(a) Temporary noncorrection of the violation will not create an imminent risk of harm to a nursing home resident; and

(b) A controlling person on behalf of all other controlling persons:

(1) Has entered into a contract to obtain the materials or labor necessary to correct the violation, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to correct the violation is due solely to that failure; or

(2) Is otherwise making a diligent good faith effort to correct the violation.

The mandatory relicensure of a nursing home as the result of a transfer of interest has modified the Department's practices governing what is generally termed a "change of ownership". Prior to the enactment of Minn. Stat. Chapter 144A, which introduced the concept of a transfer of interest, the licensing procedures related to the operators as opposed to the owners of the nursing home. Even since the enactment of Minn. Stat. Chapter 144A, the Department does not license the owner of a health care facility, but rather grants the license to the person or entity responsible for the operation and management of the health care facility. The licensee need not own the land, structure or equipment which comprises the nursing home. Thus, prior to the passage of Minn. Stat. §144A.06, the sale of land, or of the building comprising the health care facility, while certainly constituting a change of ownership of those assets did not necessarily require the change in the licensee or reissuance of the license. It was only in situations, when the purchasers of the assets either assumed the responsibility for the management of the health care facility or arranged for another person or entity to assume the operation that a new license would be required. Similarly it would be possible to require a change in the licensee even when a change in the ownership of the land or building did not occur. As an example, if ownership was vested in one person who arranged for a management company to operate the facility or leased the property to a group who operated the facility; the latter entity would be the licensee. If the management contract or lease was terminated and another group assumed the operation of the facility, a new license would be required by the Department even though the actual ownership of the assets was not altered. For those reasons, a more appropriate terminology to describe the Department's responsibility would be a "change in licensee" as opposed to a change of ownership. The following are examples of what types of transactions would result

in a change of licensee:

1. The sale of the land, building and other assets of a health care facility to another entity which also assumes the responsibility for the management and operation of that facility. This would require a change of licensee and would also be considered a change of ownership.

2. The transfer of the responsibility for the operation of a health care facility to another person or entity, without a sale of the facility's assets, through the execution of a management agreement or similar arrangements. Since the party responsible for the operation is changed, a new license would have to be obtained.

3. A change in the nature of the entity operating the facility; e.g. changing a sole proprietorship into a partnership; converting a partnership into a corporation, etc. Even if the individuals comprising the new entity are the same, a new license would be required since the legal status of the entity assuming operation of the facility had changed.

However, as long as the legal entity responsible for the operation of the facility remained unchanged, ownership interests could be transferred without the need for obtaining a new license. Thus, in a situation where a major transaction in the stock of a corporate licensee occurred, a new license would not have to be issued as long as the existence of the corporation remained unchanged. The license would still be held by the corporation despite the fact that new additional shareholders have been added even if a new individual held a controlling share of that corporation's stock.

However, with the enactment of Minn. Stat. §144A.06, the ownership of interests held in a nursing home become more important and under that statute, a change in ownership of those interests could result in the expiration of the license

even if the licensee remains the same. As stated in the statute, the transfer of interests in the land, structure or in the facility could result in the expiration of the current license and necessitate that steps be taken to obtain relicensure. Even if the licensee is unchanged by these transactions, relicensure will be come necessary. The following examples will assist in clarifying this statement:

1. If an individual or other entity owning the land, or structure comprising the nursing home, but not responsible for its operation, sells these assets to another person or entity, relicensure will be required despite the fact that the licensee remains unchanged.

2. If an individual holds the lease to the land or structure but does not operate the facility, the termination of the lease or the subleasing to another entity would also require that the nursing home be relicensed.

3. If stock is transferred in a corporate licensee and if the size of the transaction falls within the requirements specified in the statute or rule, relicensure will again be necessary even though the corporate licensee is unchanged.

It should also be noted that the earlier examples used to distinguish between a change of ownership and a change of licensee would also require relicensure under the provisions of Minn. Stat. §144A.06.

The broadening of the situations which necessitate relicensure of a nursing home as the result of the enactment of Minn. Stat. §144A.06, emphasizes the need to assure that the Department has established rules which will promote the efficient processing of relicensure requests. Since the licensee's ability to maintain operation of a nursing home could be modified by transfers of interests not under the licensee's control, the Department has proposed rules

which will promote the processing of requests for relicensure by assuring that prior notice of a transfer is furnished to the Department and by placing time limits on the submission of licensure applications. It should be noted that Minn. Stat. §144A.06, subdivision 2 provides specific authority to the Commissioner to establish procedures governing the relicensure of nursing homes as the result of a transfer of interest.

Specific comments

> 3. Transfer of interests; notice. A controlling person, as defined in Minnesota Statutes, section 144A.01, subdivision 4, who transfers an interest in the nursing home shall notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests, and the date of the transfer.

Notice requirement

Section 3. requires that the Department be notified, in writing at least 14 days before the transfer of any interest in a nursing home. This section also specifies the content of the written notice. The proposed rule provides notice, within the context of the licensure rules, of the requirements contained in Minn. Stat. §144A.06. Under these provisions, controlling persons are required to inform the Department of any transfer of interest in the nursing home. The term "controlling person" is defined in Minn. Stat. §144A.01, subdivision 4. While the term can apply to a wide range of individuals, it should also be kept in mind that not every individual who holds an interest in a nursing home, e.g., a shareholder in a corporation whose stock is listed on a major stock exchange, will be subject to the reporting requirements. The definition of controlling persons contains a number of exclusions and if an individual falls within one of those categories, the transfer of interest provisions would not apply. However, if an individual holds an interest in the nursing home and does not fall

within one of the exclusions, it is clear that this individual must provide notice to the Department if that interest is transferred to another entity or individual.

The proposed rule requires that the notice of a transfer of an interest be reported to the Department "at least 14 days before the date of the transfer". This provision, clarifies the language used in the statute which requires the reporting "of the transfer within 14 days of its occurrence". Prior notification is necessary in order to assure for the efficient processing of an application in the event relicensure is necessary. The rule is not inconsistent with the statutory language. It is the Department's position that requiring the reporting of a transfer of interest at least 14 days prior to the occurrence of the transfer is a valid interpretation of the statute. Minn. Stat. §645.08 (1) states:

> Words and phrases are construed according to rules of grammar and according to their common and approved usage;...

Webster's New Collegiate Dictionary (1975) defines "within" as meaning (a) before the end of (b) not beyond the quantity, degree, or limitations of. Using this as a guide to common and approved usage "within" could mean 14 days prior to transfer or 14 days after transfer. Due to the ambiguity of this term, the Department feels that it is necessary to clarify the term "within" by rule in order to make specific the provisions of this requirement. The Department believes that the reporting of a transfer of interest 14 days prior to its occurrence is also necessary in order to provide sufficient time to analyze the nature of the transfer to determine if relicensure will be necessary and, if necessary, to provide a reasonable time for processing the relicensure request. The Department also believes that such an interpretation of the term

"within" is not unreasonable. The identity of those individuals or entities considered to be a "controlling person" of the nursing home will be disclosed as part of the licensure process. In the majortiy of instances, controlling persons will possess significant interests in either the facility, the land or the structure. Thus, it is not unreasonable to require that these individuals provide advance notice of a transfer of any of these interests since the negotiations revolving around the terms and conditions of a transfer would normally take place well in advance of 14 days prior to the transfer date. In addition, the time provided by the advance notice will allow the Department additional time to study the nature of the transaction to determine if relicensure will be necessary and to also identify any impediments that would jeopardize the relicensure of the facility. For example, a transferee may be prohibited from becoming a controlling person in the nursing home as the result of the provisions of Minn. Stat. §144A.04, subdivision 4. In such a situation, relicensure would not be possible and, since the license will expire 90 days after a transfer, the possibility of the nursing home losing its license to operate becomes greater.

The provisions of the statute require that the license expire 90 days after the date of the transfer and the statute also requires that at least 60 day notice of the expiration of the license be provided by the Department. If the reporting of a transfer is allowed to be made 14 days after the occurrence, their would only be a 16 day period in which to evaluate the nature and extent of the transfer and to determine if relicensure will be required. In situations where additional information may be necessary to clarify the nature and extent of the transfer, a sixteen day time period to obtain and evaluate this additional information may not be sufficient. Further problems would occur if a transfer is reported beyond the 14 day time period or goes completely unreported and

not discovered until the time of license renewal. In the latter situation, it would be possible to have a situation where it is determined that a facility's license had expired. In such a case, the facility's certification in the Medicaid program would probably be void and the nursing home could be required to return moneys received through the State's Medicaid program. While the harsh consequences of the above example have been modified by the Department's interpretation of the time frames as directory as opposed to a mandatory requirement, the Department believes that it is still necessary to assure that advance notice of a transfer be provided. The enactment of Minn. Stat. §144A.06 emphasized the Legislature's concern as to the identity of individuals holding an interest in the nursing home. The provisions restricting certain controlling persons and managerial employees from having an interest in a nursing home also reflects the Legislature's concern to assure that prospective controlling persons comply with the provisions of the licensing law. In order to carry out the legislative intent and to provide for an efficient method for analyzing the nature of a transfer of interest and, if necessary, for processing the relicensure of the facility, advance notice will be necessary. The requirement that any transfer of an interest by a controlling person be reported to the Department is a clear indication of the intent of the Legislature to assure that the disclosure of controlling persons required as part of the license application process is maintained on a current basis. In addition, the requirement that the license expire upon the transfer of a significant interest in either the licensee, the land or the structure also is indicative of the Legislature's desire to assure that any individual holding or acquiring an interest in a nursing home be subject to Department analysis as well as identified for public scrutiny. The time frames established for the reporting of the transfers as well as for the processing of the license provide a mechanism to reasonably

implement the provisions of Minn. Stat. §144A.06 in a way which closely conforms to the legislative intent.

The continuity of a nursing home's licensed status is a major concern to the Department. The lapse in licensure would result in the closing of the home and necessitate the initiation of efforts to transfer residents to a licensed facility. Therefore, it is necessary to provide as much time as possible to evaluate the transfer and, if required, to arrange for the relicensure of the nursing home. The proposed rule provides 14 days for the Department to initiate its review of the transaction prior to the actual transfer of the interest. This period will allow time to identify any possible impediments to relicensure and to provide notice to the parties prior to completion of the transaction. The prior notice requirement emphasizes the need to assure that the transferor and the transferee of an interest consider the continuing licensure of the nursing home as part of the negotiation process. It cannot be assumed that relicensure will be the automatic consequence of a transfer. As will be discussed below, until relicensure is approved, the former licensee will be held accountable for the operation of the home up until the time the license is reissued. If the request for relicensure is denied or if any impediments to relicensure are not corrected prior to expiration, the former licensee will be responsible for taking the necessary steps to protect the health and safety of the residents during the transfer process.

Contents of the notice

The second sentence of section 3. specifies the content of the written notice to be provided to the Department. The statute requires that the name and address of the transferor and transferee as well as the nature and amount of the transferred interest be provided to the Department. As discussed previously,

it is the Department's position that the licensure rules should include all of the provisions to be met by an applicant for licensure. Thus, the Department feels that the duplication of the statutory language is necessary to assure compliance with these provisions.

This rule also requires that the date of transfer be provided. This information is necessary to determine if the notice is submitted on a timely basis and will also assist the Department in scheduling any necessary surveys that might be required prior to approving the relicensure of the nursing home. Since the routine licensure and certification surveys are scheduled in advance, adjustments in those survey schedules must be made to complete any additional surveys, such as a relicensure survey. The date of the transfer will provide the date that the license will expire and the advance notice will provide time for the necessary scheduling of surveys without unduly disrupting the day to day survey activity of the Department.

> 4. Transfer of interest; expiration of license. A transfer of interest will result in the expiration of the nursing home's license under the following conditions:
>
> a. if the transferred interest exceeds ten percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses an interest in excess of 50 percent of the total interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or
>
> b. if the transferred interest exceeds 50 percent of the total interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.
>
> Under either of these conditions, the nursing home license expires 90 days after the date of the transfer or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90-day period, the licensee shall apply for a renewed license in accordance with section 2. The department shall notify the licensee by certified mail at least 60 days before the license expires.

Nature of transfers resulting in the expiration of the license

Minn. Stat. §144A.06 requires that a nursing home be relicensed if a transferred interest in the facility, the structure in which the facility is located, or the land upon which the structure is located exceeds 50% of the total beneficial interest in the facility, structure or land. In order to provide the necessary clarification of the term "facility" the proposed rule has substituted the term "licensee". As defined in the rule, the term "licensee" is the individual or entity to whom the license is issued. The licensee is responsible for the management and operation of the nursing home. As defined in Minn. Stat. §144A.01, subdivision 5, a nursing home means "a facility or that part of a facility which provides nursing care..." The use of the term "facility" in that section implies that the meaning is much broader than the mere physical structure; rather, it is equated to the entity providing or furnishing the nursing care. In order to conform with the statute, the inclusion of the term "licensee" is more appropriate. This interpretation will avoid problems distinguishing between the terms "building" or "facility". The use of the term "licensee" will also confirm the legislative intent underlying Minn. Stat. §144A.06 by assuring that the identity of those individuals actually operating the nursing home i.e. the licensee, is disclosed.

Section 4.b. incorporates the statutory provision calling for the mandatory relicensure of a nursing home if the transferred interest exceeds 50% in the licensee, the land, or the structure.

If a transferred interest exceeds 10% but not more than 50% of the total interest in the licensee, the structure or the land, the provisions of Minn. Stat. §144A.06 give the commissioner the option to require relicensure. In order to provide a more objective basis for determining whether relicensure

would be required, the Department has developed criteria in section 4.a. of the proposed rule. That rule takes into consideration the end result of the transfer of the interest; if the transferee, as a result of the transfer, then possesses an interest in excess of 50% of the total interest in the licensee, in the structure of in the land, relicensure will be required. For example, a corporate licensee has 3 shareholders holding 30%, 30% and 40% of the stock, and if one of the shareholders sells all of the stock to the individual holding 40%, that individual would exceed the 50% threshold established by the rule and relicensure would become necessary.

The rationale for the Department's rule is based on the intent of the statute to assure that persons having interests in either the licensee, the structure or the land are disclosed and to assure that those individuals are not precluded from operating a nursing home in violation of the statutes. It should be noted that transfers of interests other than those in the licensee, the land or the structure would not require relicensure even if the transfer exceeded 50% of that interest. The statute limits the need for relicensure to those interests which have an immediate impact on the resident. The holder of the land or structure could significantly affect the operation of the nursing home by terminating a lease or other arrangement with the licensee. This would result in a change in the operator or, possibly could result in the closure of the facility, if the owner decided to utilize the premises for another purpose. In order to assure that the individuals with the power to make such changes are identified, the proposed rule will require relicensure if an individual who did not initially possess a majority interest, obtains a majority interest as a result of a transfer. The individual holding a majority interest has increased the control that can be exercised over the operation of the nursing home. The

proposed rule only applies to those situations when a person became a majority holder of an interest in the land, structure or licensee. For example, the land and structure is owned by three individuals having a 20%, 20% and 60% interest and the holder of a 20% interest sells the interest to the individual having the 60% holding. In this instance, the ability to control the majority of the interests is unchanged and relicensure will not be necessary.

The Department believes that this rule provides the necessary criteria upon which to base a decision to require relicensure and also believes that limiting relicensure to situations in which an individual or entity becomes the majority holder of the interest is reasonable.

Date of expiration

The last paragraph of section 4. provides for the expiration of the license 90 days after the date of transfer or 90 days after the notice of transfer is received, whichever period of time is greater. This provision does differ from the language in the statute which indicates that the license shall expire 90 days after the date of the transfer. It is the Department's position that the time frame specified in the statute is directory and not mandatory. Thus, the Department has the discretion to implement this provision in such a manner to assure that the provisions and the intent of the statute are met. It is the Department's position that the additional language providing for the expiration of the license after receipt of a notice of transfer fully meets the intent of the statute and provides for an appropriate and reasonable implementation of its provisions.

As previously discussed, the proposed rule requires that advance notice of the transfer be received and assuming general compliance with that provision, the

great majority of licenses would expire 90 days after the date of the transfer. However, it has been the Department's experience that notices of a change in the licensee of a health care facility are not always provided to the Department until after such changes take place or shortly before the transfer is scheduled to be made. Thus, without the added language in the proposed rule, there could be situations when a notice is submitted to the Department after the license has already expired under the provisions of Minn. Stat. §144A.06. If the statute is construed to contained mandatory time frames, the result would impose financial hardship on the facility as well as possibly adversely affecting the residents. If the license had expired, any moneys provided to the facility under the Medical Assistance Program may have to be repayed since the facility's ability to participate in that program is contingent upon it being a licensed nursing home. In addition, the Department would have to initiate steps to transfer residents to a licensed nursing home. However, the proposed rule would alleviate these results by providing time to complete the necessary steps to obtain relicensure.

In a recent Minnesota Supreme Court decision regarding the distinction between mandatory and directory time frames, the Court stated:

> We have observed in several cases that statutory provisions defining the time and mode in which public officers shall discharge their duties, and which are obviously designed merely to secure order, uniformity, system and dispatch in public business, are generally deemed directory.
>
> - Benedictine Sisters Benev. Association vs Pettersen,
>
> 299 N.W. 2d 738, 740 (1980)

The purpose of this statute's time frames are to ensure that an adequate period of time is available to the Department to process the relicensure request and, in those situations where they may be an impediment to such relicensure, to take measures to adequately protect the safety and well being of the resident of that facility. It is the Department's position that the time frames fall within the realm of the agency's orderly, systematic and effective performance of its duties.

Renewal license required

The last paragraph also states that if the license expires prior to the end of the 90 day period, the licensee will also be required to complete the license renewal process.

Minnesota Statutes, §144A.05, relating to license renewals, states:

> Unless the license expires in accordance with section 144A.06 or is suspended or revoked in accordance with section 144A.11, a nursing home license shall remain effective for a period of one year from the date of its issuance....

That statute clearly indicates that a one year period is the longest licensure period available. The failure to obtain a renewal license would result in the termination of that facility's license. Thus, in situations where a license is scheduled to expire prior to the 90 day period provided in Minn. Stat. §144A.06, it will be necessary to provide for the continuity of a license by obtaining its renewal.

The proposed rules governing license renewals require that the application be submitted at least 60 days prior to the date of the license expiration. Situations could occur when the decision to sell the nursing home is made after that submission date or when the scheduled date of the transfer is set after the start of the nursing home's next licensure year. In those cases, failure

to obtain a renewal license would result in the nursing home losing its licensed status.

The Department believes that the rule does not impose an unreasonable burden on the licensee or on a prospective applicant for licensure. It is the Department's responsibility to assure that a nursing home maintains its license to operate in order to fully protect the residents therein. This rule may result in the submission of licensure fees for the obtaining of the renewal as well as for the processing of the license; however, the Department does not view this to be an excessive burden. The licensee and the prospective licensee are aware of the expiration date of the license and can either allocate responsibility for payment of the renewal fees as part of the sales agreement or set the date for the transfer of the license at a time where an overlap with the licensure year end will not occur.

Notification of expiration

The last sentence in this paragraph conforms to the provisions contained in Minn. Stat. §144A.06. The Department believes that this reference is necessary in order to provide notice to the licensee as to the need for relicensure. As explained above, relicensure of the facility could be required even though the licensee remains unchanged. The inclusion of this rule will assure that all of the requirements governing the processing of a transfer of interest is contained in one location.

> 5. Transfer of interest; relicensure. A controlling person may apply for relicensure by submitting the license application form at least 45 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. If the applicant for relicensure is a corporation, it shall submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation shall also submit a copy of its certificate of authority to do business in Minnesota. The

department shall relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with Minnesota Statutes, sections 144A.02 to 144A.16 and 1.012., unless the applicant requests a later time. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

Application forms

Section 5 requires that the applicant for relicensure complete the application form supplied by the Department. This form will be identical to the form used for initial and renewal licensure.

Time period for submission

The statute and the rule requires that the Department notify the licensee at least 60 days in advance of the expiration of the license. Thus, there is not an extended period of time to process the application or to obtain any necessary clearances that may be required. For that reason, the Department believes that it is necessary to receive the completed application at least 45 days prior to the expiration of the license. This will provide the licensee or prospective applicant a reasonable period of time to complete and return the application. If the licensee is the same, the majority of information on the license application will remain the same. The only major area of change will be in the disclosure of the controlling persons. However, the Department believes that this information should be readily available to the licensee by contacting the transferor of the interest who would have been identified on the previous application. If the transfer will also result in a change of the licensee, additional changes will have to be made in the application, particularly in the area of the disclosure of managerial employees. However, the Department still believes that the 2 week period of time provided for the application is reasonable. It can be assumed that as part of the negotiations

leading to the transfer and subsequent relicensure, the parties have identified the controlling persons as well as the managerial employers who will assume duties once the license has changed. Thus, completion of the application form and submission to the Department should not place an unreasonable burden upon the applicant.

Licensure fees

The rule will require that each application for a license be accompanied by the fee prescribed in 7 MCAR §1.701, Exhibit I. This requirement is mandated by the provisions of Minn. Stat. §144A.01.

Submission of articles of incorporation

The rule, in accordance with the provisions of Minn. Stat. §144A.03, requires that, if the applicant for relicensure is a corporation, a copy of the articles of incorporation and bylaws be submitted with the application. Foreign corporations will also be required to submit a copy of its certificate of authority to do business in Minnesota.

Issuance of the license

This section clarifies the requirements regarding the effective date of a new license. Minn. Stat. §144A.06 establishes specific requirements that must be met by the applicant prior to the relicensing of the nursing home: the nursing home must comply with the renewal licensure provisions of Minn. Stat. §144A.05 which includes the provision assuring that the facility is in compliance with the statutes and the rules; and any uncorrected violations must be eliminated. The statute does allow the Commissioner to waive correction of violations under the provisions specified in the statute. If a waiver is granted, this would be part of the Commissioner's determination as to compliance with the rules and statutes and would not jeopardize relicensure.

The proposed rule does, however, state that until the facility has been relicensed, the former licensee will be held accountable for operation of the nursing home. This requirement is necessary to fully protect the residents in the nursing home as well as to provide notice to the parties that relicensure cannot be taken for granted. If the Department rejects the application for relicensure, the operation of the nursing home must be provided for until the expiration date occurs. Thus, the former licensee must be held accountable to fully assure that the necessary services are provided to the residents. The Department believes that the parties involved in the negotiations can take this provision into consideration by providing that the agreement is not finalized until such time as relicensure is attained. The statute, by providing that licensure expire 90 days after the transfer, contemplates the requirement contained in the rule. The 90 day period provides time to evaluate the parties that will be controlling persons to assure that the individuals are acceptable. Since the license was not set to expire at the time of the transfer, the legislature must have assumed that the former licensee will continue to operate the facility until the relicensure request is approved. This provision is necessary to assure that the Department has a person or entity to be held responsible for the operation of the nursing home during this 90 day period.

Amendment to the license

> 6. Amendment to the license. If the nursing home requests changes in its licensed capacity or in the level of care provided, it shall submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula established in 7 MCAR S 1.701, Exhibit I. The amendment to a license is effective for the remainder of the nursing home's licensure year.

Application form

7 MCAR §1.044 R. provides that a nursing home is subject to the Department's evaluation and approval of the physical plant and its operational aspects prior to a change in ownership, classification, capacity or services. The proposed rule will require that an application be submitted to the Department 30 days before a change is made in the licensed capacity or the level of care provided in a nursing home. The application would specify the facility's current licensed capacity and current level of care, e.g., nursing home or boarding care home beds; and indicate the nature of the requested change. Additional information such as the location of the rooms affected, the requested date of change, and the necessary facility identification data would also be included on the form.

Time period for submission

The rule will require that the application be submitted at least thirty days prior to the requested date of change. This time period is necessary in order to verify that the application is complete and to provide time for the scheduling of any necessary surveys. Such surveys could be required if additional beds are requested or if room locations would change as the result of the change in capacity or level of care. In addition, it will also be necessary to assure that any requested change complies with the requirements of the Certificate of Need Law.

Licensure fees

The fee rule, 7 MCAR §1.701 provides for a $12 per bed fee if the licensed capacity of a nursing home is changed during the term of the license. The proposed rule references the provision of the fee rule.

Approval by the Department

The last sentence of section 6 indicates that an amendment would be effective for the remainder of the facility's licensure year. Granting of the request for an amended license would, of course, be contingent upon the Department's approval of the request. 7 MCAR §1.044 R., discussed above, states that Departmental approval is necessary for any change in classification or capacity.

License conditions or limitations

General comments

The nursing home licensure law allows the Commissioner to impose conditions or limitations on the license issued to a nursing home. Minn. Stat. §144A.02 states, in pertinent part:

> . . . The license may also specify the levels of nursing care which the facility is licensed to provide and shall state any conditions or limitations imposed on the facility in accordance with the rules of the commissioner.

The provisions of 7 MCAR §1.044 Y. 7.-12 consist of the rules governing the imposition of a condition or limitation on the license of a nursing home. The proposed rules identify the reasons for these license restrictions, the types of conditions or limitations, and various procedural requirements relating to the issuance of the condition or limitation and the appeal procedure.

> 7. Issuing conditions or limitations on the license. The department may attach to the license any conditions or limitations it considers necessary to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and well-being of the nursing home's residents. A condition or limitation may be attached when a license is first issued, when it is renewed, or during the course of the licensure year.

General comments

A conditional or limited license would be issued in situations when a licensee is not able to fully comply with the licensure rules, when the nursing home must limit admission to a specific type or number of residents or in other situations when additional control over the licensee is necessary to fully protect the interests of the residents. The Department views the issuance of conditional or limited licenses as an additional control to regulate the performance of a nursing home licensee by clearly stating the conditions or limitations upon which continued licensure will be dependent. Failure to comply with any established condition or limitation could result in the loss of the license. For example, during the surveys to process a transfer of interest, a number of deficiencies may be noted which could not be remedied prior to the requested date for relicensure. While the Department could temporarily waive compliance with those provisions in accordance with the provisions of Minn. Stat. §144A.06, subdivision 2., it might also be appropriate to issue a conditional license requiring completion within a specified time period. Similarly, a conditional license could also be issued to compel the licensee to take necessary corrective action to remedy a deficiency in the facility. For example, if a licensee has received a number of correction orders and/or penalty assessments for a specific item and fails to remedy the problem or is unable to consistently maintain an acceptable state of compliance, the issuance of a conditional license may be an appropriate incentive to compel the licensee to attain compliance. In this instance, a conditional license would notify the licensee of the steps to be taken and provide a time frame for the completion of the required activity. Failure to comply with the conditions would necessitate the initiation of proceedings to suspend or revoke the license.

Limitations could be imposed on the license in situations where it is necessary to modify the type or number of residents admitted to a nursing home. The number of residents that can be legally admitted to a nursing home is controlled by the licensed bed capacity stated on the license. However, situations may arise which would necessitate placing additional restrictions on the type or number of residents to be admitted. For example, a nursing home may be undergoing physical plant repairs and, during the construction, it may be necessary to prohibit admissions to a specific wing or section of the facility. In this instance, a limitation on the license would preclude admission to these areas until such time as the construction is completed.

Another instance for which a limited license could be issued would be in situations where the types of residents to be admitted could be restricted. The provisions of MHD 45(e) state that a nursing home cannot admit an individual for whom care cannot be provided in keeping with their known physical, mental or behavioral condition. This rule imposes on the nursing home the responsibility to assure that admissions are limited to only those individuals capable of being cared for in accordance with the staff and other resources of the facility. If a nursing home is not able to internally impose restrictions, it may be necessary for the license to specify that certain types of residents, e.g., individuals in need of physical therapy, cannot be admitted. Another limitation would occur in areas where certain types of individuals, such as the severely handicapped, might have to be located for the resident's safety.

Authority and criteria

Consistent with the provisions contained in Minn. Stat. §144A.02, Section 7 of the proposed rule clearly states the Department's authority to issue conditional or limited licenses which are necessary to assure compliance with the licensure

laws or rules or to protect the interests of the residents. The underlying criteria for deciding whether or not a conditional or limited license is to be issued is directly tied to the Department's responsibility for monitoring and regulating nursing homes. Once a license to operate a nursing home is issued, the Department is responsible for assuring that compliance with the applicable laws and rules is attained and maintained by the licensee. In addition, the licensure rules of the Commissioner must assure for the health, treatment, comfort, safety and well-being of nursing home residents. Thus, the responsibilities of the Commissioner are directly tied into the protection of nursing home residents, and the ability to issue conditional or limited licenses is a mechanism that can be utilized to meet that responsibility. The Commissioner cannot issue a conditional or limited license unless such issuance is necessary to assure compliance with the laws or rules or for protecting the interests of the residents.

Since the need for the issuance of a conditional or limited license could arise any time during the licensure year of a nursing home, the proposed rule provides for the issuance at the time of the initial licensure or at the time of license renewal or any time during the course of the licensure year. This is necessary to assure that the protections afforded by conditioning or limiting the license can be enacted promptly by the Department.

8. Reasons for conditions or limitations. In deciding to condition or limit a license the department shall consider at least the following:

a. the nature and number of correction orders or penalty assessments issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

b. the commission of illegal acts by any of the controlling persons or employees of the nursing home;

c. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

d. the condition of the physical plant or physical environment; or

e. the existence of any outstanding variances of waivers.

General comments

Section 7 establishes the criteria governing the decision to issue a conditional or limited license, i.e. the need to assure compliance with laws or rules governing the operation of the nursing home or the need to protect the interests of the nursing home residents. Section 8 enumerates some of the specific reasons which the Department could consider in the decision making process to determine if conditional or limited licensure would be appropriate. It should be noted that the specific reasons contained in subsections a-e are descriptive as opposed to an absolute listing of the reasons that would necessitate the issuance of a conditional or limited license.

Issuance of correction orders or penalty assessments

Subsection a. provides that one of the factors that the Department could consider in determining whether the issuance of a conditional or limited license would be appropriate is the nature and number of correction orders or penalty assessments issued to a nursing home or to other nursing homes having some or all of the same controlling persons. The correction order/penalty assessment system described in Minn. Stat. §144A.10 is the Department's primary enforcement mechanism to assure compliance with the licensure laws and rules. In the majority of instances, the issuance of orders to a nursing home has resulted in prompt corrective actions by the facility since the failure to comply with a correction order would subject the facility to a monetary fine. However, in certain situations it may be necessary to utilize an additional control, e.g. the issuance of a condition or limitation, to assure that steps are being taken to obtain compliance. For example, a nursing home may have been provided an

extended period of time to complete some major remodeling and during that period, an area may not be available for resident use. A limitation on the license would clearly indicate that such an area would not be available for resident occupation until such time as the necessary construction work had been completed and approved by the Department. Another example would be a situation which involves a nursing home with a history of numerous correction orders or repeat violations or assessments. The ultimate sanction against a nursing home for failure to comply with the licensure rules would be the initiation of proceedings to suspend or revoke the facility's license. However, the Department could, as an intermediate step between the issuance of orders and assessments and initiation of revocation proceedings attach a condition to the license. Such a condition would clearly notify the facility's licensee that changes must be made and conditions improved. A violation of the condition would subject the facility to revocation proceedings.

The issuance of orders or assessments to other nursing homes with some or all of the same controlling persons could also result in the issuance of a condition or limitation to a nursing home. The Department feels that this requirement is necessary to assure that appropriate controls can be maintained over nursing homes operated by the same controlling persons. The provisions relating to the disclosure of controlling persons and the prohibition excluding certain individuals from being controlling persons of a nursing home evidences a strong legislative intent to monitor the activities of these individuals. It is not uncommon for a number of nursing homes to be operated under the auspices of a central organization and, if problems with the central organization arise, it might be necessary for the Department to impose conditions or limitations on all facilities operated by that organization. For example, if the organization fails to provide necessary equipment, supplies, or staffing to a particular

nursing home, such actions could be indicative of a pattern of problems that might be found in other facilities. In order to fully protect the residents in all the facilities operated by the same controlling persons, a condition or limitation could be attached to the license. Such action by the Department would place an obligation on the controlling persons to remedy the problems in the specific facility and also protect the interests of residents in all facilities operated by the same controlling persons. The Department does not envision that conditions or limitations would be frequently issued under these conditions. However, the expansion of the number of facilities operated under the same form of common ownership makes it important for the Department to have some enforcement control in the event problems do occur.

Illegal acts by controlling persons

Subsection b. relates to the commission of illegal acts by any of the controlling persons or employees of the nursing home. Minn. Stat. §144A.04, subdivision 4 and 6 as amended by Minn. Laws 1982, Chapter 633, prohibit a nursing home from having a controlling person or managerial employee who was convicted of a felony relating to the operation of the nursing home or directly affecting resident safety or care. In this situation, it may be appropriate for the Department to attach a condition to the nursing home's license specifically excluding such individuals from serving in the facility. The issuance of a condition would clearly place the facility on notice that a violation could subject the facility to license revocation.

Acts contracy to the welfare of residents

Subsection c. relates to the performance of any acts contrary to the welfare of the residents by a controlling person or employee. This provision is again illustrative of the types of problems that could result in the decision to

issue a conditional or limited license. The Department can control, in many instances, the performance of acts contrary to the welfare of residents through the correction order/penalty assessment system. In addition, Minn. Stat. §144A.12 also provides the Commissioner the power to request injunctive relief to curtail illegal activities in violation of the licensure laws. However, the ability to attach a condition or limitation to a license provides the Department with an additional remedy to prevent the continuation of such acts. Continued licensure would become contingent upon compliance with any such conditions or limitations attached to the license. For example, if a nursing home was utilized for other services, such as day care, or providing meals to community members and if these services adversely impacted on the facility's responsibility to meet the needs of the residents, a license condition prohibiting such activities would be appropriate.

Physical plant deficiencies

Subsection d. relates to problems associated with the physical plant or environment. This subsection is also illustrative of the issues that could result in the decision to issue a limited or conditional license. If the issuance of correction orders did not provide a sufficient incentive to alleviate problems, making licensure contingent upon the corrections would be appropriate. Another example would be placing limitations on the number or types of resident that could be admitted to a specific room or area in the facility due to resident's physical handicaps or to the size of the particular room.

Outstanding variances or waivers

Subsection e. relates to the existence of outstanding variances or waivers. While compliance with variance or waivers is controlled by the provisions of 7 MCAR §1.044 X., the Department might also want to place a limitation or condition on the license to guarantee compliance or to specifically notify the

public as to the existence of a variance or waiver.

Summary

Section 8 attempts to establish some objective illustrations of the factors that would be considered in deciding whether the issuance of a variance or waiver would be appropriate. The underlying criteria would still be the standards contained in section 7 requiring the need to assure compliance with the laws or rules or to protect the interests of the residents.

> 9. Types of conditions or limitations. The types of conditions or limitations that may be attached to the license include at least the following:
>
> a. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;
>
> b. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or
>
> c. imposition of schedules for the completion of specified activities.

General comments

Section 9 is also intended to be descriptive as opposed to an all-inclusive listing of the types of conditions or limitations that could be attached to a nursing home's license. The nature of a condition or limitation can be specifically identified only after the specific facts involving a situation are known and a solution to the problem agreed upon. It would be impossible to develop a listing of all of the types of conditions and limitations that might be used by the Department. However, the criteria contained in section 7 will be the benchmark upon which the appropriateness of a condition or limitation will be measured. The condition or limitation must assure for compliance with the licensure laws or rules or protect the health, treatment, safety, comfort and well-being of the nursing home residents.

Restrictions on types and numbers of residents

Subsection a. describes a condition or limitation that would restrict the

number or types of residents to be admitted or permitted to remain in the nursing home. This type of condition or limitation would be used in situations when an area of a nursing home would not be available for resident occupation during construction or remodeling or in situations where the resources of a nursing home to appropriately care for specific types of individuals are not available.

Limitations on controlling persons or managerial employees

Subsection b. describes a condition or limitation which would prohibit specified individuals from being a controlling person or managerial employee of a nursing home. This type of condition or limitation would be used in situations when an individual was precluded from being a controlling person or managerial employee in accordance with the provisions of Minn. Stat. §144A.02. The issuance of a conditional or limited license would assure that the statutory provision is complied with by the licensee of the nursing home.

Schedule for completion of specified activities

Subsection c. describes a condition or limitation that would impose upon the license a schedule for the completion of specified activities. This type of condition or limitation would be used when it is necessary to assure compliance with specified activities in a period of time. The schedule would clearly notify the licensee that continued licensure would be contingent upon the satisfactory completion of the described activities.

10. Statement of conditions or limitations. The department shall notify the applicant or licensee, in writing, of its decision to issue a conditional or limited license. The department shall inform the applicant or licensee of the reasons for the condition or limitation and of the right to appeal. Unless otherwise specified, any condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists. The licensee shall notify the department when the reasons for the condition

or limitation no longer exists. If the department determines that the condition or limitation is no longer required, it shall be removed from the license.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license in an accessible and visible location.

Sections 7 to 9 described the need for and the types of conditions or limitations that could be imposed by Department. The remaining 3 sections of this particular section of the proposed rules deal with the procedural aspects of attaching a condition or limitation, the effect of a condition or limitation and the appeal rights of the nursing home.

Notification

The first paragraph of section 10 relates to the notification to the licensee or applicant for licensure of the decision to issue a conditional or limited license and the period of time during which such conditions or limitations will remain effective.

Content of notice

In order to assure for a proper notice to the applicant or to the licensee, the Department will be required to inform that individual of the decision to issue a conditional or limited license. As part of that notice, the Department will state the reasons underlying the decision to issue a conditional or limited license. This will provide the licensee or applicant an explanation of the Department's reasons and provide information upon which decisions can be made and implemented to alleviate the problem resulting in the condition or limitation. The notice will, of course, notify the licensee or the applicant with the right to appeal the Department's decision.

Effective time period for a condition of limitation

The period of time during which a condition or limitation will be effective is described in the second sentence of the first paragraph. The first part of that sentence provides that the condition or limitation will continue for as long as the licensee of the nursing home remains unchanged. In certain situations, it may be necessary for the condition or limitation to be permanently affixed to the license as long as the licensee remains unchanged. Thus, the condition would be attached to the initial license and continue to be placed on the license at the time of the annual renewals. However, the Department believes that the provisions contained in the second part of this sentence would be the general rule. This ties the duration of the condition or limitation to the existence of the problem which necessitated the issuance of this license restriction. If the licensee can demonstrate that compliance has been attained, the continued need for condition or limitation would be reviewed by the Department. The rule will place the burden on the licensee to notify the Department when the problems resulting in the condition or limitation have been corrected. This would then initiate the Department's verification of the licensee's claim and, if the problem was resolved, the Department would remove the condition or limitation.

Statement on the license

The second paragraph of section 10 requires that the condition or limitation be noted on the license issued by the Department. The requirement that the condition or limitation be specified on the license is mandated by the provisions of Minn. Stat. §144A.02, subdivision 1. If it is not possible to include the full text of the condition or limitation on the license, the rule will require that the licensure letter of the Department, which would contain

the full text of any condition or limitation, be posted alongside the license in an accessible and visible location. In certain situations, it would not be possible to fully state the condition or limitation on the license. In those situations, the license would reference the existence of a condition or limitation and refer to the licensure letter. The posting of the licensure letter in these situations would assure compliance with the statutory provision as well as assuring that notice of any condition or limitation is available to the residents and public. Posting the letter alongside the license in an accessible and visible location will assure that the condition or limitation is fully disclosed.

> 11. Effect of a condition or limitation. A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with Minnesota Statutes, section 144A.11.
>
> If the department issues a correction order, it shall determine the time allowed for correction. That time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. If the department assesses a fine, the fine is $250. The fine accrues on a daily basis in accordance with Minnesota Statutes, section 144A.10.

Effect of condition or limitation

Section 11 describes the effect of a condition or limitation and also describes the consequences of a licensee's non-compliance with the terms of the condition of limitation. The rule provides that the condition or limitation would have the force of law. The granting of a condition or limitation provides to the licensee the right to operate the nursing home which would normally not have been granted without such condition or limitation. Since the condition or limitation was necessary to assure compliance with the licensure laws or rules or to protect the interests of the nursing home residents, it is necessary that such condition or limitation impose upon the licensee the obligation to

comply with the stated provisions. The existence of a condition or limitation modifies the responsibilities of the licensee by requiring compliance with the condition or limitation as well as with the licensure laws and rules. In order to fully assure that compliance with the licensure law and rules will be attained and to protect the interests of the residents, it is required that any conditions or limitation have the force and effect of law.

Non-compliance with a condition or limitation

The second sentence of the first paragraph details the consequences of noncompliance with the terms of the condition or limitation. The rule provides the Commissioner two options: the issuance of a correction order or penalty assessment or the initiation of proceedings to suspend or revoke the nursing home's license. The Department believes that it is necessary to maintain the ability to issue correction orders to compel compliance with the terms of a condition or limitation. Without this provision, the only sanction would be the initiation of a license revocation hearing. The issuance of a license condition or limitation places an obligation on the licensee to comply with those terms or face the loss of the license. However, it would not be inconceivable to have a situation when the licensee may not be in total compliance with the terms of the condition or limitation but such noncompliance would not justify a revocation of the license. This is, of course, a factual determination but in these situations the issuance of a correction order within a stated period of time for compliance might be sufficient for the licensee to regain compliance. If the order is not complied with, a penalty assessment would be issued. The intermediate sanction of the issuance of a correction order and possible penalty assessment would protect the residents of the facility from possible relocation if revocation was the only available sanction for noncompliance.

Issuance of correction orders

The second paragraph of section 11 relates to the procedures that would be followed if a correction order or penalty assessment mechanism was utilized to enforce compliance with the terms of a license condition or limitation.

The provisions of Minn. Stat. §144A.10, subdivision 4 require that the Commissioner establish by rule a schedule of allowable time periods for correction of a nursing home deficiency. As will be discussed later, the development of the schedule of allowable time periods is premised as the nature of the rule and the steps that a nursing home would be required to follow to attain compliance. However, since the actual terms of a condition or limitation would not be known until actually issued by the Department, a prospective setting of a time period is not possible. However, in order to provide an objective criteria to be followed in selecting an allowable time period for correction, the proposed rule will require that the Department take into consideration the nature of the violation and the interests of the residents. This analysis will provide a reasonable basis for establishing the time period since it will include a consideration of the steps to be taken by the facility as well as the impact that continued noncompliance would have on the nursing home residents.

Issuance of a penalty assessment

Minn. Stat. §144A.10, subdivision 6 requires that the Commissioner promulgate in rule a schedule of fines. The maximum fine is $250 per day. The schedule of fines is based on the risk of harm to which residents would be subject if a correction order was not complied with. However, since the nature of the condition or limitation is not known until issued, a prospective setting of a fine is also not possible. For that reason, the Department has specified in the proposed rule that the maximum fine amount of $250 per day will be assessed if a nursing home fails to comply with a correction order issued as

a result of noncompliance with the terms of a condition or limitation. The Department believes that the maximum fine amount is appropriate since the granting of the license with the condition or limitation provided the licensee the right to operate or to continue to operate the nursing home. Without the issuance of the condition or limitation, the probable result would have been the denial of the license or the initiation of proceedings to revoke the license. The facility's failure to comply with the condition or limitation is a serious violation of the licensure provisions and the imposition of the maximum daily fine will be an incentive to regain compliance as well as serving as a deterrent to avoid a situation of noncompliance.

The last sentence of the second paragraph provides notice that any fine will accrue on a daily basis as required by the provisions of Minn. Stat. §144A.10.

> 12. Appeal procedure. The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceedings under the Administrative Procedure Act, Minnesota Statutes, sections 15.0418 to 15.0426, within 15 days after receiving the notification described in 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional or limited license should not be issued. Except in a proceeding challenging the decision to condition or limit a current or renewal license, the applicant has the burden of proving that an unrestricted license should be issued.

Time period for submission of notice to appeal

Section 12 provides the licensee or applicant for licensure the right to contest the Department's decision to issue a conditional or limited license. The rule provides that any challenge to the issuance of a conditional or limited license would be made by requesting a contested case proceeding under the provisions of the Administrative Procedures Act. The rule will require that the notice of appeal be submitted within 15 days of the receipt of the notice from the Department. The Department believes that the 15 day period is necessary in order to

assure for a prompt determination of the licensure status of a facility. The fifteen day period is identical to the period of time provided for the appeal of a penalty assessment, Minn. Stat. §144A.10, subdivision 8, or for requesting an appeal from the denial of a variance or waiver request, 7 MCAR §1.044 X.7. The Department does not believe that the 15 day time period would impose an unreasonable demand on the licensee or the applicant for licensure and also believes that the importance in clarifying the licensure status of a nursing home justifies this time period.

Content of Notice

The rule will also require that the request for a hearing set out in detail the reasons why the conditions or limitations should not be placed on the license. Section 10 requires that the Department state its reasons for conditioning or limiting the license. Thus, the applicant or licensee will be fully appraised as to the reasons supporting this decision. If the condition or limitation is not considered appropriate, the reasons to support this conclusion should be furnished to the Department. The rule would allow for a clarification of the issues being appealed and could possible lead to informal discussions between the parties which would eliminate the need for the formal hearing. The licensee or the applicant for licensure would be in a position to readily state the grounds for requesting the appeal and this provision would not present a hardship to the parties.

Burden of proof

The final sentence of the rule relates to the burden of proof in the contested case proceeding. The Department will have the burden of proof in situations when the condition or limitation is placed on a current license or at the time a license is renewed. However, the rule places the burden of proof upon

an applicant for a license and will require that this party demonstrate that they are entitled to an unrestricted license. The rule is in accord with a Minnesota Supreme Court decision entitled In re Application of the City of White Bear Lake, 247 N.W. 2d 901 (1976). The Court stated:

> ..."In administrative proceedings, the general rule is that an applicant for relief, benefits, or a privilege has the burden of proof." 73 C.J.S., Public Administrative Bodies and Procedures, §124. In this State the burden of proof generally rests on the one who seeks to show he is entitled to the benefits of a statutory provision. 3A Dunnell, D.g. (3 ed.) § 3468 and 3469.
>
> -Id,at 904

The above statement clearly holds that if the applicant for license believes that they have the right to receive an unconditional or unlimited license, that party will have the burden to establish their right to the license.

7 MCAR §1.048A.8.c.(7) Record of patients'/residents' funds - personal fund account

> (7) Upon the request of the patient or resident or the patient's or resident's legal guardian or conservator or representative payee, the nursing home or boarding care home shall return all or any part of the patient's or resident's funds given to the nursing home or boarding care home for safekeeping, including interest, if any, accrued from deposits. The nursing home or boarding care home shall develop a policy specifying the period of time during which funds can be withdrawn ~~on each day of the week~~. This policy must ensure that the ability to withdraw funds is provided in accordance with the needs of the residents. The nursing home or boarding care home shall notify patients and residents of the time periods during which funds can be withdrawn. The nursing home or boarding care home shall establish a procedure allowing residents to obtain funds to meet unanticipated needs on days when withdrawal periods are not scheduled. Funds kept outside of the facility shall be returned within five business days.

The proposed amendment to this section of the personal funds rule will modify the requirement relating to the time periods during which residents can withdraw funds from their accounts in a nursing home or boarding care home. The former rule required that a nursing home and boarding care home specify a period of time during which funds can be withdrawn on each day of the week. As written, this rule presented difficulties to a number of nursing homes and boarding care homes since weekend staff coverage was normally not provided for the facility's business office, where the fund accounts are generally maintained. The concerns expressed to the Department involved the additional costs that would be incurred to provide business office coverage during weekends and holidays as well as concerns relating to the proper handling of fund accounts if other individuals, not familiar with the bookkeeping procedures, were authorized to dispense funds during the weekends. Since the rule was adopted, the Department has granted 29 waivers from the provisions of this rule. Those waivers were granted as the result of the facility's difficulties

in complying with the rule. In each instance, the granting of the waiver was based on the equivalent measures that would be taken by the facility to provide residents access to the funds. These equivalent measures would include notification to the residents that funds would not normally be available on weekends and would also often provide for some means by which residents could obtain funds if an unexpected situation arose.

The number of waivers granted by the Department as well as the number of questions received regarding this rule has prompted the Department to reassess the requirements that funds be available for withdrawal on a seven day a week basis. The proposed amendment reflects the Department's belief that daily withdrawal need not be mandated as a minimum requirement. Under the provisions of the proposed rule, the nursing home or boarding care home will still be required to establish a policy specifying the periods of time during which funds can be withdrawn. However, the rule will now specifically require that the policy be developed in accordance with the needs of the residents. The Department believes that past practices in the facility will provide an appropriate basis to calculate resident needs and the Department would encourage that the facility solicit resident opinions regarding appropriate time periods. The rule requires that the facility's residents be notified of the times for withdrawing funds. This requirement will provide the residents with the necessary information to anticipate any need for funds and to arrange for the withdrawal of funds during the designated time periods. It must be kept in mind that the decision to handle the personal funds of residents is an option for the facility. The change contained in this amendment will provide a facility with additional flexibility and not jeopardize the interests of the residents. However, the rule will require that each facility

develop a procedure which will allow a resident to have access to funds to meet unanticipated demands on days when withdrawal periods are not scheduled. Waiver requests have generally been granted only upon the facility's assurance that a mechanism was available to meet the unanticipated needs of residents. These procedures ranged from the establishment of a petty cash fund to assuring that an individual, e.g. administrator or business office employee, would be available to come to the facility. The Department believes that this mechanism is important to assure that residents can receive funds when an unexpected need arises. The facility would have flexibility in establishing these procedures. This provision would fully protect the needs of residents without creating a serious problem for the facility to implement.

7 MCAR §1.053 N. Administration of medications by unlicensed personnel

> N. Administration of medications by unlicensed personnel. THE FOLLOWING APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES: Unlicensed nursing personnel who administer medications in a nursing home or boarding care home must have completed a medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution. The nursing home or boarding care home shall keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

The purpose of this proposed amendment is to assure that unlicensed personnel who are permitted to administer medications in a nursing home or boarding care home are trained in the theory and skills needed to properly administer medications. This rule does not impose a new standard on a nursing home or boarding care home, but rather, incorporates into the licensure rules existing federal certification requirements relating to the use of unlicensed personnel to administer medications. The Department feels that it is important to include this provision in the licensure rules since it cannot be guaranteed that this provision will continue to be retained in the federal certification regulations. The inclusion in the licensure rules will provide the assurance that this important requirement is retained. The appropriate training of unlicensed personnel is necessary to assure that this critical function is performed properly so as not to jeopardize the health and safety of the residents.

The federal provision relating to the personnel allowed to administer medication in a skilled nursing facility is found in 42 CFR 405.1124(g), which states, in pertinent part:

> Drugs and biologicals are administered only by physicians, licensed nursing personnel, or by other personnel who have completed a State-approved training program in medication administration....
>
> (Emphasis supplied)

A similar provision, relating to intermediate care facilities, is found in 42 CFR 442.337(a) which states:

> Before administering any medications to a resident, a staff member must complete a State-approved training program in medication administration.
>
> (Emphasis supplied)

Pursuant to those federal regulations, medication administration training programs for unlicensed personnel were established by the Department of Health with assistance from the Department of Education. The courses are primarily offered in area-vocational technical institutions. These courses have uniform instructor qualifications, curriculum and test-out procedures. Since the enactment of the federal regulations, all unlicensed personnel administering medications in a skilled nursing facility or an intermediate care facility have been required to complete these training courses.

The proposed amendment to the State licensure laws will not modify this practice nor will the rule create additional requirements to be met by the nursing home or boarding care home. The rule will require that unlicensed personnel who administer medications in a nursing home or boarding care home complete a medication training program. This requirement follows the provisions of the federal regulations. Only 9 out of the 440 licensed nursing homes are not certified. Thus, the overwhelming majority of nursing homes already must meet the requirements of the federal regulations. The 9 non-

certified nursing homes will have to meet the new licensure requirements if they elect to have unlicensed personnel administer medications. The Department does not believe that this change in the licensure laws will significantly impact on these 9 facilities. The proposed rule will also apply to boarding care homes that are also certified as intermediate care facilities. The ICF regulations require that the facility establish procedures for medication administration and, as noted above, those rules require the training of unlicensed personnel who are permitted to administer medications. (Uncertified boarding care homes are permitted to distribute medications to residents, however, this is not the same as medication administration. Distribution implies only that the facility assists the residents in taking the medications prescribed by a physician. Administration of medications involves the preparation of the medications, checking the patient's records, distributing the medication and the recording of the medications.)

The proposed rule requires that the medication administration training programs be offered through a Minnesota post-secondary education institution. This requirement will assure that the training program meets the requirements established by the Departments of Health and Education to implement the federal regulations. The Department believes that it is necessary to insert this requirement in the licensure rules. The training programs are widely offered throughout the state and have been repeatedly evaluated to assure that the course structure and content will appropriately train unlicensed personnel to administer medications. This requirement will continue to assure that the training programs will be offered in a manner which appropriately trains the unlicensed personnel.

The final part of this rule will require that the nursing home and boarding care home maintain written documentation verifying completion of the course by its unlicensed nursing personnel. The Department will issue to each course participant a certificate of completion upon verification from the educational institution that the individual has successfully completed the course. A copy of this document is to be retained by the facility to provide the necessary documentation that the staff has completed the training requirements. This provision is based on the requirements contained in 7 MCAR §1.048 A.11.f. which requires a nursing home or boarding care home to retain, in each employees' personnel file, a listing of all institutes and training courses attended.

7 MCAR §1.056 Schedule of fines for uncorrected deficiencies

C. Boarding care homes . . . . . page 103

§ 1. $50 penalty assessments . . . . . page 105

§ 2. $250 penalty assessments . . . . . page 111

D. Nursing homes . . . . . page 117

§ 1. $50 penalty assessments . . . . . page 117

§ 2. $150 penalty assessments . . . . . page 118

7 MCAR §1.057 Schedule of fines for uncorrected deficiencies.

The proposed amendments to this rule are required as the result of the other amendments being proposed by the Department. Minn. Stat. §144.653, subd. 6 and Minn. Stat. §144A.10, subd. 6, require that the Department promulgate by rule a schedule of fines. The amendments to 7 MCAR §1.057 correspond to the new rules being proposed at this time.

Section C. Boarding care homes

A new section, Section C., has been added to this rule which identifies a specific listing of fines that are applicable to boarding care homes only. Prior to this amendment, the applicable fine schedule for boarding care homes was contained in sections A. and B. However, the enactment of new rules in October 1980, and the proposed adoption of rules at this time require that this new section be included.

In October, 1980, the Department adopted amendments to the nursing home and boarding care home rules. As part of that package, a new section was added to 7 MCAR §1.057 which established an amended fine schedule which was applicable to nursing homes only. That provision, (which will be renumbered as section D.) established the daily fine schedule for the rules adopted in October, 1980. The fine schedule differed from the earlier schedule adopted in 1975 in that the fines would apply only to nursing homes, would accrue on a daily basis, and included a new fine level. Since the schedule of fines applicable to boarding care homes was not amended, fines issued to a boarding care home continued to be assessed at either the $50 or the $250 level. However, in preparing the current set of amendments for this hearing, it was noted that a boarding care

home would be assessed a $250 fine for a violation of a rule which would only result in a $50 daily fine for a nursing home. For example, the provisions of 7 MCAR §1.048 A.8.a., relating to the development of a policy concerning the handling of residents' funds, would result in a $50 daily fine to a nursing home. However, since this provision was not specifically enumerated in section A. of the rule, a boarding care home would be assessed $250. Since the criteria utilized in selecting the $50 fine categories are similar, the Department felt that it was necessary to amend the fine schedule to assure that fines issued to boarding care homes are equitable. Thus, it was necessary to develop a new section to the fine rule.

The criteria utilized to determine which rules would be subject to a $50 fine at the time of the initial adoption of the fine schedule in 1975 is contained in the justification submitted at that hearing. A copy of the pertinent sections of that document is attached as Appendix D. As noted in the criteria, the rules for which a $50 fines would be assessed are those rules which do not directly relate to the provision of patient care and for which noncompliance would not present a hazard to the patient's health or safety. In addition, noncompliance with rules in this category would not effect the capability of the home to provide an overall high quality of care nor would noncompliance jeopardize the resident's personal or property or impact on the financial stability of the facility. This criteria was similar to the criteria utilized to select the rules which would be assessed against a nursing home at the $50 daily level. That criteria was contained in the Statement of Need and Reasonableness presented at the public hearing in April, 1980. A copy of the pertinent portions of the Statement of Need and Reasonableness are attached as Appendix E. Briefly, that criteria identifies those rules which would have

only a minimal relationship to the health, safety, treatment, comfort or well-being of a patient and for which noncompliance would not jeopardize the health or safety of a patient. Since the criteria are similar, the Department wishes to correct this oversight and has modified the schedule of fines accordingly.

Section C.1. contains those rules which would result in the issuance of a $50 penalty assessment for a boarding care homes failure to comply with a correction order issued by the Department. Subsections a. - g. relate to the provisions of the new rules being proposed at this hearing which are applicable to boarding care homes, the pet rule and the VAA rule; while subsections h. - q. reference the rule amendments adopted in October, 1980. As previously discussed, this latter category is included at this time to assure uniformity in the fine schedules for nursing homes and for boarding homes. For each of the rules enumerated in this section, it is the Department's position that the criteria, utilized to select those rules subject to the $50 fine level, has been met. These rules do not directly relate to the provision of care or relate to the financial stability of the facility. In addition, noncompliance with the rules would not present a hazard to resident health or safety, or jeopardize the resident's property or personal rights. Noncompliance with the rules would also not affect the capability of the facility to provide an overall high quality of care to residents. The following comments will summarize the provisions of the rules identified in section C.1. and briefly note the Department's rationale for including the rules in this fine category.

a. 7 MCAR §1.042 B.1.

The failure to develop a written policy specifying whether or not pet animals can be kept on the premises would not affect the provision of resident care nor

would the residents be jeopardized by the absence of the written policy. The operation of the facility or the provision of care would not be adversely affected by the failure to develop the written policy.

b. 7 MCAR §1.042 B.2.

The failure of the written policy to specify whether or not individuals would be permitted to retain pets or to specify the restrictions placed on keeping pets would also not directly affect the provision of resident care nor would this failure jeopardize the residents in the facility. The operation of the facility or the provision of care would not be adversely affected by a violation of this rule.

c. 7 MCAR §1.042 B.3.

The failure to consult with facility staff and with residents prior to developing the policy on pets is also not related to the provision of resident care nor would noncompliance with this rule jeopardize the residents of a boarding care home. The failure to comply with this requirement would not adversely affect the operation of the facility or the provision of care to the residents.

d. 7 MCAR §1.042 C.1.

This rule requires that a policy be developed which specifies the types of pet animals that can be retained in the boarding care home. The failure to develop the written policy would not directly relate to the provision of care to residents nor would noncompliance jeopardize the facility's residents. The lack of a policy would not affect the operation of the facility or the provision of care to the residents.

e. 7 MCAR §1.042 C.5.

The failure to retain copies of the veterinarian's recommendations and records of examinations does not relate to the provision of care nor would this failure jeopardize the residents in the facility. The failure to retain these documents would not adversely affect the operation of the home or the provision of care.

f. 7 MCAR §1.043 C.2.a.

The rule requires that the facility abuse plan be developed by an interdisciplinary committee selected by the administrator. The rule is necessary to assure that the plan is based on a broad range of input and appropriately addresses the specific situation in each facility. However, the failure to establish an interdisciplinary committee in itself would not directly relate to resident care nor would noncompliance jeopardize the interests of the residents. It is conceivable that an individual could develop an acceptable plan for the facility; however, the Department feels that the rule is necessary and reasonable to increase the probability that an effective plan is developed. Nevertheless, the failure to comply with this particular rule would not adversely affect the operation of the facility or the provision of care to residents.

h. 7 MCAR §1.048 A.4.

The failure of the boarding care home to maintain records for a period of five years after the death or discharge of a resident would not directly relate to resident care nor would noncompliance with the rule jeopardize the residents of the facility. Noncompliance with this rule would also not adversely affect the operation of the home or the provision of care to residents.

i. 7 MCAR §1.048 A.8.a.

The failure to specify in the facility's admission policies whether or not the personal funds of residents would be accepted for safekeeping would not directly relate to the provisions of resident care nor would noncompliance with this rule jeopardize the residents in the facility.

j. 7 MCAR §1.048 A.8.b.(2)

This rule requires that the boarding care home retain a copy of the resident's written authorization for the home to handle the resident's funds. The failure to retain this authorization would not directly relate to the provision of resident care nor would noncompliance jeopardize the residents in the facility. The failure to obtain an authorization as required by 7 MCAR §1.048 A.8.b.(1) would subject the boarding care home to a $250 penalty assessment. However, the failure to obtain the authorization is different from the failure to retain a copy of the authorization in the resident's record. Since this failure would also not affect the operation of the home or the provision of care, the $50 fine is appropriate.

k. 7 MCAR §1.048 A.8.c.(3)

This rule prohibits an entity operating more than one facility from

commingling the personal funds of residents from more than one facility into one account. A violation of this rule would not directly relate to the provision of resident care nor would noncompliance with this rule jeopardize the residents in the facility. A violation of this rule would not affect the operation of the facility or the provision of care to residents.

l. 7 MCAR §1.048 A.8.c.(5)

The failure of a boarding care home to deposit a resident's funds in excess of $150 in a financial institution also does not directly relate to the provision of care to a resident nor would noncompliance jeopardize a resident in the facility. The rule is designed to assure that funds over $150 are maintained in a safe location; however, noncompliance with this rule would not necessarily jeopardize the resident's assets. Noncompliance would not affect the operation of the home or the provision of care.

m. 7 MCAR §1.048 A.8.c.(6)

The failure of the boarding care home to prorate interest that might have accrued to a resident is not related to the provision of care to the resident nor would noncompliance jeopardize the residents in a boarding care home. A violation of this rule would require that the facility take the necessary corrective action and allocate any accrued interest to the residents. The failure to prorate interest would not necessarily imply that the accrued interest owing to a specific resident was used for the purposes of the nursing home or for other residents which is prohibited under the provisions of 7 MCAR §1.048 A.8.c.(2). A violation of this rule would not adversely affect the operation of the facility or the provision of care to residents.

n. 7 MCAR §1.048 A.8.d.

This rule requires that the boarding care home make the arrangements to return personal funds to residents at the time of discharge from the facility. The failure to comply with this rule would not directly relate to the provision of care to the resident nor would the violation jeopardize the resident. The boarding care home would be required to return the funds to the resident, however, the violation of the rule would not adversely affect the operation of the home or the provision of care to the residents.

o. 7 MCAR 1.048 A.8.e.

This rule requires that the home provide a complete accounting of any funds held by the home at the time of a resident's death. Noncompliance with the rule would not directly relate to the provision of care to a resident nor would noncompliance jeopardize the interests of the resident. A violation of the rule would not adversely affect the operation of the home or the provision of care.

p. 7 MCAR §1.052 A.1.b.

The failure of the boarding care home to develop a policy regarding the use of double beds would not directly relate to the provision of resident care or jeopardize the residents in the facility. A violation of the rule would not adversely affect the operation of the home or the provision of care.

q. 7 MCAR §1.055 U.1.b.(1)(c)

The failure of the boarding care home to provide space for at least four racks of clean dishes would not directly relate to the provision of resident care nor would noncompliance jeopardize the residents in the facility. The primary

purpose of this rule is to assure that adequate space for the air drying of dishes and utensils is conveniently provided. However, a violation of this rule would not adversely impact on the operation of the facility or on the provision of care.

Section C.2. identifies those rules which would result in a $250 penalty assessment for the boarding care homes noncompliance with a correction order. The rules referenced in this section correspond to the provisions of the pet rule and the VAA rule. The Department's decision to impose the $250 assessment for a violation of these rules is consistent with the criteria developed to support the initial fine schedule in 1975. At that time, the Board of Health felt that the two level fine system was appropriate. Since the Department is not altering the structure of the fine schedule, the use of the $250 fine level has been retained. In accordance with the criteria used in 1975, any rule which did not meet all of the criteria developed to select those rules subject to the $50 fine would be assessed at the $250 level. Thus, if any one of the 5 criteria used by the Board was not met, the rule would be subject to the maximum $250 fine. The following comments will summarize the provisions of the rules identified in section C.2. and briefly note the Department's rationale for including these rules in this fine category.

a. 7 MCAR §1.042 C.2.

This rule requires that the facility's policy specifying the types of pet animals to be retained in the home be developed after consultation with a veterinarian and a physician. The rule was developed to assure that pets which have a higher risk of transmitting diseases to residents are not allowed to be

kept in the facility. A violation of this rule could jeopardize the health and safety of residents by possibly subjected the residents to an animal-borne disease. For that reason, the maximum fine is appropriate.

b. 7 MCAR §1.042 C.3.

This rule requires that pet animals be kept in good health. The rule is necessary to eliminate any potential harm that could be presented to residents by keeping a sick animal on the premises. Since a violation of the rule would present a risk to the resident's health and safety, the maximum fine is appropriate.

c. 7 MCAR §1.042 C.4.

This rule requires that any pet animal be examined and receive any necessary immunizations or treatments in accordance with the veterinarian's recommendations. This rule is necessary to assure that the pet animals are maintained in good health which, in turn, reduces any risk to the resident's health or safety. For that reason, the maximum fine is appropriate.

d. 7 MCAR §1.042 C.6.

This rule requires that the facility assume overall responsibility for any pet kept on the premises. This rule is necessary to assure that pets are appropriately cared for and to assure that the keeping of pets on the premises would not jeopardize the health and safety of the residents. For that reason, the maximum fine is appropriate.

e. 7 MCAR §1.042 C.7.

This rule requires that the boarding care home ensure that pets kept on the premises do not create a nuisance or otherwise jeopardize the health, safety,

comfort, treatment or well-being of the residents. A violation of this rule would affect the health or safety of residents and the maximum fine for a violation of this rule is appropriate.

f. 7 MCAR §1.042 C.8.

This rule requires that the facility designate a specific individual to be responsible for the care of all pets in the facility and for ensuring the cleanliness and maintenance of cages, tanks or other areas used to house pets. The rule is necessary to ensure that proper supervision of any pets kept in the facility is provided. The violation of this rule could lead to the failure to properly monitor the impact of pets on the residents and this could prevent a hazard to resident health or safety. For that reason, the maximum fine for a violation of this rule is appropriate.

g. 7 MCAR §1.042 C.9.

This rule identifies those areas within the facility where pets would be prohibited. This rule is necessary to avoid the contamination of areas where sanitary conditions are important such as food service areas or medication storage areas. Contamination of these areas could jeopardize the health or safety of residents and, for that reason, the maximum assessment is appropriate.

h. 7 MCAR §1.043 B.

This rule requires that the facility comply with the provisions of the Vulnerable Adult Abuse Reporting Act. That law includes the provisions relating to the mandatory reporting of suspected cases of abuse or neglect and the implementation of the law is designed to protect residents from possible abuse or neglect. The law and the rule do relate to the provision of resident

care and noncompliance would jeopardize the health and safety of the residents. For these reasons, the maximum fine amount is appropriate.

i. - m. 7 MCAR §§1.043C.1.; C.2.b.; C.2.c.; C.2.d.; C.2.e.
Each of the above rules relates to the development of the facility abuse plan. This plan is designed to identify and remedy conditions which make residents susceptable to abuse or neglect. The failure to develop this plan in conformance with the laws and rules could jeopardize the health and safety of residents. The rules cited above require that the facility develop and implement the abuse plan, require that this plan be based on an assessment of the population, environment and the physical plant; include a plan to correct or alleviate any conditions making residents susceptable to abuse; establish a schedule for completing any identified problems; and, requires an annual review of the plan. These elements are necessary to ensure the proper implementation of the plan which is designed then to minimize resident's susceptibility to abuse. These rules relate to resident health and safety and the maximum fine is appropriate.

n. - s. 7 MCAR §§1.043 D.1.; D.2.a.; D.2.b.; D.2.c.; D.2.d.; D.2.e.
Each of the above rules relates to the development of the individual abuse prevention plans. These plans are intended to identify each individual's susceptibility to abuse and then to include measures to minimize the risk of abuse. These plans are related to the provision of care to residents and are important to protect the resident's health and safety. The rules cited above require that the facility establish the policies and procedures for the development of these plans, and require that the plans be based on an interdisciplinary team review. These rules are important to the health and safety of the residents since the rules provide for the implementation of these plans

and will assure that the various needs of a resident are considered and evaluated during the plan development. The rules also require that the plan be developed as part of the care plan for the resident and that the plan include measures to minimize the risk of abuse to each resident. These provisions also relate to the health and safety of the residents since the rules will provide for the prompt development of these plans and require that specific steps be identified to minimize any potential for abuse. The rules will also require the annual review of the plans as well as requiring any necessary revision. These elements are important to ensure that the plan is current with the resident's conditions. Since the individual abuse prevention plans are an important measure to assure for the resident's health and safety, the Department believes that the maximum fine is appropriate.

t. - x. 7 MCAR §§1.043 E.1.; E.2.; E.3.; E.4.; E.5.

Each of the above rules relates to the establishment of an internal reporting mechanism designed to ensure that all suspected cases of abuse or neglect are promptly investigated and reported to the appropriate agencies. The cited rules would impact on the health and safety of residents since the rules are necessary to assure that any suspected incidents of abuse or neglect are promptly investigated and reported to appropriate agencies. The establishment of this internal system will also enable corrective actions to be promptly implemented which would reduce the possibility of further abuse or neglect. The rules require that specific individuals be designated within the facility who will be responsible for the review, investigation and reporting of suspected cases of abuse. These provisions will assure that the facility is able to promptly deal with any suspected cases of abuse and this will protect the health and safety of residents. The prompt review of suspected cases of abuse or neglect will also enhance the capability of the facility to provide an

overall high quality of care. The rules will also require that records be maintained by the facility and that copies of these records be forwarded to the Department's Office of Health Facility Complaints. This will also protect the health and safety of residents by encouraging a detailed investigation of the facility as well as providing necessary information to the agencies responsible for investigating suspected cases of abuse or neglect. The rules will also require that residents be notified as to the existence of this mechanism and informed of their right to report suspected cases of abuse or neglect. This requirement is also related to resident health and safety since it will assure that residents are fully informed as to their rights under the provisions of the law. Since the internal reporting system is designed to protect residents by the prompt investigation of suspected cases of abuse or neglect, the Department believes that the maximum fine is appropriate.

y. 7 MCAR §1.043 F.

This rule requires that the boarding care home notify its staff of the mandatory reporting requirements contained in the law and include an explanation of the facility's abuse plan, the individual abuse plans and the internal reporting mechanism in its orientation and inservice training programs. This rule relates to the protection of resident's health and safety by assuring that the facility's staff will be aware of the requirements of the law and rule which are designed to protect residents from abuse or neglect. In addition, this information will enhance the facility's capability to provide an overall high quality of care by assuring that the staff is aware of its responsibilities. The Department believes that the maximum fine amount is appropriate.

Section D. Nursing Home Assessments

The amendments to this section of the schedule of fines, which was adopted in October, 1980, are required as the result of the other rules being proposed at this time. As previously mentioned, the selection of the fine amount was based on the criteria used to justify this section of the fine schedule at the public hearing in April, 1980. (Appendix E) Since the Department is not modifying the structure of the rule, but only adding new sections to correspond with the proposed rules, the criteria has again been utilized.

Section D.1. contains those rules which will result in a $50 daily fine for noncompliance with a correction order. In accordance with the established criteria, these rules have only a minimal impact on the health, safety, treatment, comfort or well-being of residents and noncompliance with these rules would not jeopardize the health or safety of a resident. The rules listed in section D.1. a. - f. are the same rules previously discussed in C.1. a. - f., the boarding care home fine schedules. As noted in the discussion of those rules, each of the rules do not directly relate to resident care nor would noncompliance jeopardize the health and safety of the residents. Since the criteria used for the selection of the $50 fine for boarding care homes and the $50 daily fine for nursing homes is quite similar, the Department relies on the comments contained in the Statement of Need and Reasonableness to support the provisions of section C.1. a. - f., above, to support the need and reasonableness of section D.1. a. - f.

Two additional rules, which do not apply to boarding care homes, are also included in the $50 daily fine category. The additional sections are as follows:

h. 7 MCAR §1.044 Y.2.

This rule establishes the procedures governing the submission and processing of an application for a renewal license. Since compliance with the provisions of these rules would have only a minimal impact on the health, safety, treatment, comfort or well-being of residents, and since noncompliance would not jeopardize the health and safety of residents, the imposition of the $50 daily fine is required. The rule is primarily procedural in nature and the failure to submit an application within the time frame specified in the rule or to submit the correct licensure fee would not have an impact on the residents.

y. 7 MCAR §1.044 Y.3.

This rule requires that the Department be notified, in writing, at least 14 days prior to the transfer of an interest in the nursing home. Since compliance with the provisions of this rule would have only a minimal impact on the health, safety, treatment, comfort, or well-being of residents and since noncompliance would not jeopardize the health and safety of residents, the imposition of the $50 daily fine is required. The rule is procedural in nature and directed towards assuring that the Department is advised of all transfers of interest in a nursing home. While the failure to comply with the rules would subject the licensee to a correction order and possible assessment, such noncompliance would not impact on the care or services provided to residents.

Section D.2. contains those rules which would result in a $150 daily fine for noncompliance with a correction order. In accordance with the established criteria, the failure to comply with these rules could potentially create a situation jeopardizing the health, safety, treatment, comfort or well-being of a patient. It is the Department's position that the rules identified in the

section of the fine schedule meet that criteria. The specific rules contained in section D.2. are discussed below.

a. 7 MCAR §1.042 C.

This rule requires that the facility's policy specifying the types of pet animals to be retained in the nursing home be developed after consultation with a veterinarian and a physician. The rule was developed to assure that pets which have a higher risk of transmitting diseases to residents are not allowed to be kept in the facility. The failure to comply with this rule could result in the nursing home allowing pets in the facility which could transmit diseases to the residents. The failure to comply with the rule has the potential for jeopardizing the health and safety of the residents.

b. 7 MCAR §1.042 C.3.

This rule requires that pet animals be kept in good health. The purpose of this rule is also to reduce the posibility that residents could be subjected to an animal-borne disease. A violation of this rule has the potential for jeopardizing the health and safety of the residents.

c. 7 MCAR §1.042 C.4.

This rule requires that any pet animal be examined and receive any necessary immunizations or treatments in accordance with the veterinarian's recommendations. This rule is necessary to assure that pets are maintained in good health which, in turn, reduces any risk to resident's health and safety. Noncompliance with this rule could potentially jeopardize the residents in the facility.

d. 7 MCAR §1.042 C.6.

This rule requires that the facility assume overall responsibility for any pet kept on the premises. The rule is necessary to assure that pets are appropriately cared for and to assure that the keeping of pets on the premises would not jeopardize the health and safety of the residents. The licensee of the nursing home is responsible for the activities and services provided to the residents. In order to assure that the keeping of pets does not interfere with the resident's health, safety or rights, it is necessary to require that the licensee assume responsibility in this area. Failure to comply with this rule would result in a lack of supervision which potentially could jeopardize the health, safety, comfort or well-being of residents.

e. 7 MCAR §1.042 C.7.

This rule requires that the boarding care home ensure that pets kept on the premises do not create a nuisance or otherwise jeopardize the health, safety, comfort, treatment or well-being of the residents. The failure to comply with this rule could potentially jeopardize the residents in the nursing home.

f. 7 MCAR §1.042 C.8.

This rule requires that the facility designate a specific individual to be responsible for the care of all pets in the facility and for ensuring the cleanliness and maintenance of cages, tanks or other areas used to house pets. This rule is also necessary to assure that proper supervision of any pets kept in the facility is provided. A violation of this rule would result in the failure to provide a uniform system for supervision and this could result in pets creating a nuisance or otherwise jeopardizing the residents in the nursing home.

g. 7 MCAR §1.042 C.9.

This rule identifies those areas within the facility where pets would be prohibited. This rule is necessary to avoid the contamination of areas where sanitary conditions are important such as food service areas or medication storage areas. Contamination of these areas could potentially jeopardize the health, safety, treatment, comfort or well-being of residents.

h. 7 MCAR §1.043 B.

This rule requires that the facility comply with the provisions of the Vulnerable Adult Abuse Reporting Act. That law includes the provisions relating to the mandatory reporting of suspected cases of abuse or neglect. The law is designed to protect residents from abuse or neglect. The law and the rule relate to the protection of resident health and safety and noncompliance could potentially jeopardize the residents in the facility.

i. - m. 7 MCAR §§1.043 C.1.; C.2.b.; C.2.c.; C.2.d.; C.2.e.

Each of the above rules relates to the development of the facility abuse plan. This plan is designed to identify and remedy conditions which would make residents susceptible to abuse. The failure to develop this plan in conformance with the law and these rules could potentially joepardize the residents in the nursing home. The cited rules require the development of the facility abuse plan, require that this plan be based on an assessment of the population, environment and physical plant; include a plan to correct or alleviate any conditions making residents susceptible to abuse; establish a schedule for completing any identified problems; and, requires an annual review of the plan. These elements are necessary to ensure the proper implementation of the facility abuse plan, which is designed to minimize the possibility of abuse. Failure to comply with these provisions could potentially jeopardize

the health, safety, treatment, comfort or well-being of residents.

n. - s. 7 MCAR §§1.043.D.1.; D.2.a.; D.2.b.; D.2.c.; D.2.d.; D.2.e. Each of the above rules relates to the development of the individual abuse prevention plans. These plans are intended to identify each individual's susceptibility to abuse and then to include measures to minimize the risk of abuse. These plans are related to the provision of care to residents and are important to protect the resident's health and safety. The rules cited above require that the facility establish the policies and procedures for the development of these plans, and require that the plans be based on an inter-disciplinary team review. These rules are important to the health and safety of the residents since the rules provide for the implementation of these plans and will assure that the various needs of a resident are considered and evaluated during the plan development. The rules also require that the plan be developed as part of the care plan for the resident and that the plan include measures to minimize the risk of abuse to each resident. These provisions also relate to the health and safety of the residents since the rules will provide for the prompt development of these plans and require that specific steps be identified to minimize any potential for abuse. The rules will also require the annual review of the plans as well as requiring any necessary revisions. These elements are important to ensure that the plan is current with the resident's conditions. Since the individual abuse prevention plans are an important measure to assure for the resident's health and safety, noncompliance with these rules could potentially jeopardize the resident's health, safety, treatment, comfort or well-being.

t. - x. 7 MCAR §§1.043 E.1.; E.2.; E.3.; E.4.; E.5.

Each of the above rules relates to the establishment of an internal reporting mechanism designed to ensure that all suspected cases of abuse or neglect are promptly investigated and reported to the appropriate agencies. The cited rules would impact on the health and safety of residents since the rules are necessary to assure that any suspected incidents of abuse or neglect are promptly investigated and reported to appropriate agencies. The establishment of this internal system will also enable corrective actions to be promptly implemented which would reduce the possibility of further abuse or neglect. The rules require that specific individuals be designated within the facility who will be responsible for the review, investigation and reporting of suspected cases of abuse. These provisions will assure that the facility is able to promptly deal with any suspected cases of abuse and this will protect the health and safety of residents. The rules will also require that records be maintained by the facility and that copies of these records be forwarded to the Department's Office of Health Facility Complaints. This will also protect the health and safety of residents by encouraging a detailed investigation by the facility as well as providing necessary information to the agencies responsible for investigating suspected cases of abuse or neglect. The rules will also require that residents be notified as to the existence of this mechanism and informed of their right to report suspected cases of abuse or neglect. The failure to comply with these rules could potentially jeopardize the health, safety, treatment, comfort and well-being of residents.

y. 7 MCAR §1.043 F.

This rule requires that the nursing home notify its staff of the mandatory reporting requirements contained in the law and include an explanation of the

facility's abuse plan, the individual abuse plans and the internal reporting mechanism in its orientation and inservice training programs. This rule relates to the protection of resident's health and safety by assuring that the facility's staff will be aware of the requirements of the law and rules which are designed to protect residents from abuse or neglect. The failure to comply with the provisions of this rule could potentially jeopardize the health, safety, treatment, comfort or well-being of residents.

nn. 7 MCAR §1.053 N.

The rule relates to the training of unlicensed personnel permitted to administer medications in the nursing home. The rule is necessary to ensure that these individuals are properly trained in this important function. Failure to comply with this rule could potentially jeopardize the health, safety, treatment, comfort or well-being of residents.

7 MCAR §1.058 Allowable time periods for correction

General comments . . . . . page 126

Specific comments

A. Allowable time periods for correction

§ 1. 7 MCAR §1.044 Y.2. and 3. . . . . page 133

§ 6. 7 MCAR §1.053 N. . . . . page 133

§ 9. 7 MCAR §1.042 . . . . . page 134

§ 10. 7 MCAR §1.043 . . . . . page 135

C. Decreasing the time allowed for correction . . page 137

7 MCAR §1.058 Allowable time periods for correction

General comments

This rule, which was initially adopted in October, 1980, is being amended as the result of the rules being proposed at this time. The amendments will specify the periods of time that a nursing home will be allowed for compliance with a correction order. The development of this schedule is required under the provisions of Minn. Stat. §144A.10. subdivision 4 which states, in pertinent part:

> ...The commissioner of health by rule shall establish a schedule of allowable time periods for correction of nursing home deficiencies.

As with the schedule of fines previously discusses, the Department has also used the same criteria contained in the 1980 Statement of Need and Reasonableness to determine the periods of time for the various amendments to this rule. A copy of the pertinent portions from that document are attached as Appendix F. As explained in that document, the Department has established 3 time periods for correction - 14 days, 30 days and 60 days. A 14 day time period is provided to comply with correction orders issued for a violation of a rule which can be corrected by a nursing home utilizing the internal resources of that facility; a 30 day time period is provided for those rules that would usually require some contacts with individuals not part of the nursing home's staff; while the 60 day time period is reserved for those rules where outside resources would have to be employed to attain compliance with a correction order.

At the time of the public hearing to discuss the November, 1980 amendments, the schedule of allowable time periods for correction was criticized on the

basis that the Statement of Need and Reasonableness for that proposed rule did not contain a general discussion of the current time periods used by the Department nor did it describe specific facts to justify the time periods provided in the rule. As indicated in that Statement of Need and Reasonableness, the time periods selected by the Department were based on criteria which made distinctions between the rule violations which could be corrected by internal resources of the nursing home and those violations which would normally require outside assistance to correct. That criteria has been used in developing the amendments to this section. A detailed explanation of the criteria and how the criteria is applied will be discussed below.

The Department does not believe that it is necessary for the proposed rule to be "justified" in light of the past experience gained by the Department in assigning time periods for correction. In fact, the very requirement that a schedule of allowable times for correction has to be developed in rule precludes a meaningful comparison between the former practices of the Department and the future implementation of this rule.

Prior to the enactment of the November, 1980 rules, the surveyor conducting the inspection would recommend a specific period of time for correction which would be reviewed by the surveyor's immediate supervisor. The selection of the time period for correction would depend on the judgement of the surveyor and the supervisor based on a consideration of the nature of the rule, the degree of harm presented to residents and the ability of the nursing home to correct the deficiency. While many correction orders provided 30, 60 or 90 days for correction, it would not be unusual to find correction orders calling for differing time periods. Due to the many issues which must be considered

in selecting a period of time, and since the need to fully protect residents by assuring compliance with the rules as quickly as possible must be weighed against the ability of a nursing home to attain compliance, it was the Department's belief that the actual selection of the time periods for correction was to be made, in most cases, by the survey staff which was responsible for conducting the inspection. Thus, it is not possible to include in this Statement of Need and Reasonableness, a list of the time periods provided for correction since such a listing does not exist. Since the selection of the time periods for correction was not uniformily established, it would be possible to find correction orders issued under the same rule and based on similar deficiencies to have differing periods of time for correction. The differences would result from differences in the degree of harm presented, the ability of the nursing home to correct or the extent of the deficiency.

The statutory requirement that the time periods for correction be specified in rule reduces the ability of the survey staff to exercise judgement in the selection of the time periods since the schedule of times must be based on general criteria as opposed to the specific facts and circumstances revealed during an inspection. Once the schedule of time periods is promulgated into rule, the Department will be bound to follow its provisions; thus, the ability to exercise independent judgement based on the facts identified at the inspection will be eliminated in most situations. This does not mean, however, that the proposed rule and the criteria supporting the time periods selected is not based on the knowledge and experience gained by the Department in implementing the provisions of the correction order/penalty assessment system. That knowledge and experience was used to define the criteria which supports the three selected time periods; however, since the schedule of times cannot

be based on specific factual situations, the experience of the Department has been channelled into generalized criteria to support a uniform schedule of fines.

The Department also believes that it is not possible to delineate specific "facts" to support the proposed rule. The statutory requirement that the allowable periods of time for correction be prospectively established as opposed to the Department's previous practice of setting the time for correction after the inspection based on the risk of harm presented by noncompliance and the ability of the nursing home to correct eliminates that ability to conclusively demonstrate why a particular rule is required to be corrected in 14 days. The Department cannot predict the specific findings that will be made during a survey to be conducted at a future time. The extent of noncompliance is an unknown factor and, for that reason, a specific analysis to support the time period provided in the rule which would include time studies or other empirical data cannot be developed. The prospective setting of time periods for correction necessitates that the Department develop criteria which provides a reasonable method for assigning a period of time for correction to a particular rule. Since the specific nature of the violation is unknown, until the time of the inspection, the criteria must be stated in broad terms. The Department has developed criteria which takes into consideration the ability of the nursing home to correct. The Department does not contend that the time frames selected and the criteria for those time frames will eliminate situations where the time period specified in the rule, when applied to the specific factual situation observed at the time of the inspection, is not sufficient to attain compliance; or conversely, that the time period is short enough to fully protect the health, safety, treatment, comfort

and well being of the residents. The rule addresses these types of situations by providing a mechanism by which the Department can reduce the period of time stated in the rule as well as providing a mechanism by which the nursing home could request an extension of the time period provided. It is well established that the provisions of a rule bind the agency as well as the entity subject to the regulation. The Department has attempted to assure that the provisions of the rule are workable and will not unduly hinder the enforcement responsibilities of the Department or place an unreasonable burden on the nursing home. The statute clearly requires that the time frames be established and the development of a rule which allows for unlimited flexibility in the selection of the time periods for correction would result in a rule which is subject to arbitrary and capricious application and enforcement.

The Department believes that the amendments to this rule are needed and reasonable and it is also the Department's position that the need for and reasonableness of the rule must be based on the Department's rationale for the selection of the criteria and the time periods for correction. The Administrative Procedures Act does not require a conclusive demonstration that the proposed rule is the only alternative available to an agency nor does the APA require that a proposed rule be supported by adjudicative trail type facts.

It is the Department's position that the time periods provided in the proposed rule are necessary to assure compliance with the provisions of the licensing laws. The licensing law places an obligation upon the licensee of a nursing home to operate the facility in compliance with the law and rules. The licensee, controlling persons and managerial employees are aware of this

obligation at the time of the issuance of the license. The licensee is responsible for taking steps to ensure that the facility is operated in accordance with the licensing rules and it would not be unreasonable to assume that some sort of a monitoring system would exist in each nursing home to assess, on a periodic basis, compliance with the standards in that particular facility.

Since the Department is responsible for protecting the rights of residents residing in nursing homes, the Department believes that the time frames selected in the proposed rule are necessary to assure that compliance with an identified violation is attained in the quickest possible period of time. The Department believes that the time periods selected provide sufficient time to make the corrections as well as to provide an assurance to nursing home residents that corrections will be made within the quickest possible period of time. While the time frames selected by the Department may be considered too short, it is the Department's position that, in order to fully protect the rights of nursing home residents, the time frames should be as short as reasonably possible. To extend the amount of time provided could lead to situations where immediate steps to obtain compliance are delayed. It should again be emphasized that the rule has a mechanism by which a request for an extension of time can be made. It is the Department's position that the extension mechanism provides adequate protection to a nursing home in cases where compliance cannot be attained within the time period specified in the correction order. If the facility can demonstrate that actions have been taken, in a good faith manner, to comply with the correction orders, the extension will be granted by the Department. The criteria used to evaluate the extension request is not unduly restrictive or burdensome to the operators of a nursing home. It should be noted that the approach taken by the Department to support the November, 1980 rules, upon

which these amendments are based, was accepted by the Hearing Examiner.

14 day time periods

The majority of the rule amendments have been assigned a 14 day time period. As previously mentioned, it is the Department's position that a violation of one of these rules can be corrected through the use of the facility's internal resources. For example, a violation of 7 MCAR §1.053 N., which requires that unlicensed personnel administering medications complete the specified training program, would be corrected by prohibiting that individual from administering medications until the required training is achieved. This could be accomplished by assuring that the Director of Nursing make the necessary scheduling changes or monitor the activities of the nursing staff to assure that only qualified individuals administer medications. A violation of 7 MCAR §1.043 C.2.e., which requires that the facility abuse plan be reviewed annually, would be corrected by assuring that such a meeting be scheduled. Since the interdisciplinary team would be comprised of nursing home personnel, it would not be unreasonable to require that a meeting be held within 14 days after the receipt of the correction order. It is the Department's position that each of the rules which have been assigned a 14 day time period can be corrected through the utilization of the nursing home's internal resources.

30 day time periods

The remaining rules have been assigned a 30 day time period for correction. These rules would generally require some contact with individuals outside of the nursing home in order to complete the necessary corrective measures. However, the nursing home would still have control over the steps required to attain compliance and would not have to depend solely on the activities

of these outside parties. For example, 7 MCAR §1.042 B.3. will require that a nursing home develop a policy specifying whether or not pets can be kept on the premises only after consultation with staff and residents. If a nursing home was issued a correction order under this rule, it would be necessary for the home to contact residents and staff and solicit their opinions regarding the keeping of pets on the premises. Since it would be necessary to consult with individuals not employed by the facility, the thirty day period for corection has been provided. The facility would still control the steps needed to comply with this order; however, outside input is also necessary.

The other rules which have been assigned a thirty day period for correction also meet the criteria established in the rules.

Specific comments

A.1. - 7 MCAR §1.044 Y.2. and 3.

The two rules identified under this provision have been assigned a 14 day time period for correction. These rules relate to the processing of renewal license requests and the submission of a notice of a transfer of interest in the nursing home. Compliance with a correction order would be attained by the submission of the required documents and this activity would be performed by facility staff. For that reason, the 14 day time period is required.

A.6.b. - 7 MCAR §1.053 N.

This provision relating to the training of unlicensed personnel administering medications has been assigned a 14 day time period for correction. This provision was discussed in the general comment section, above.

A.9. - 7 MCAR §1.042

The first five sections of the pet rule have been assigned a 30 day period of time for correction. These five rules would require that individuals outside of the facility be contacted prior to completion of the order.

7 MCAR §1.042 B.1., 2. and 3. relate to the development of a policy which will specify whether or not pets can be kept on the premises of the nursing home. As discussed above in the general comments, compliance with these sections would require consultation with the facility residents and the 30 day period is required.

7 MCAR §1.042 C.1. and 2. also relate to the development of a policy specifying the types of pet animals that can be kept on the premises. This policy must be based on input received from a veterinarian and a physician, and since these individuals are not employed by the facility, the 30 day period is required.

The remaining sections of the pet rule have been assigned a 14 day period for correction. It is the Department's position that compliance with any of the provisions would be attained through the use of internal resources available to the facility.

7 MCAR §1.042 C.3., 4. and 5. require that pets are kept in good health, receive treatments and immunizations in accordance with the veterinarian's recommendations, and that copies of the veterinarian's recommendations be maintained on file in the nursing home. Compliance with a correction order issued under one of these rules would be attained by the actions of the facility staff.

Facility staff would be responsible for monitoring the health of a pet, for assuring that pets receive the necessary veterinarian treatments and that records of examinations, treatments, etc. are maintained. An order issued under one of the provisions of these rules would direct the administrator to initiate certain action and such action could be completed within the 14 day time period.

7 MCAR §1.042 C.6., 7., 8., and 9. require that the facility assume overall responsibility for pet animals kept on the premise, designate an individual for the care of pet animals,require that measures be taken to assure that pets do not create a nuisance and restrict pets from certain areas in the facility. If a correction order was issued under one of the provisions of these rules, compliance would be attained by facility personnel. For example, the facility would have to initiate measures to clarify its responsibility for the pets in the facility, facility administration would be responsible for designating a facility employee, measures would have to be initiated to assure that pets are properly controlled and restricted to the appropriate areas. These corrective measures can be made through the home's own personnel.

A.10. - 7 MCAR §1.043

All of the sections of the VAA rule have been assigned a 14 day period for correction. It is the Department's position that a correction order issued under any one of these rules would be corrected without the need to consult with or rely on parties outside of the nursing home.

7 MCAR §1.043 B. requires that the nursing home comply with the provisions of the VAA law, Minn. Stat. §626.557. Compliance with a correction order issued

under this rule would require that the facility examine its operating policies and procedures and to then develop the necessary provisions to comply with the law. This activity would be completed by facility personnel. If appropriate policies and procedures had previously been developed, an order issued under this rule might require that the facility take the required steps to implement these provisions. Again, compliance would be attained by notifying staff of the provisions of the law, conducting training sessions, etc. This activity would be performed by facility staff.

7 MCAR §1.043 C. relates to the development of the facility abuse plan. The development of this plan would also be the responsibility of the facility administration and staff. The appointment of the committee, the assessment of the population, environment and physical plant and the development of the plan would be directed by the facility administration and based on input from the facility staff. The identification of conditions in need of correction and the schedule for correcting any identified problems would also be done by the facility. Finally, it will be the facility's responsibility to provide for an annual review of the plan and for any necessary plan revision. A correction order issued under one of these provisions could be corrected by the facility without relying on assistance from outside sources; e.g., the administration would appoint the committee, a committee meeting would be held, or the plan revised to conform with the law or rules, etc. The 14 day time period for a violation of one of these provisions is reasonable.

7 MCAR §1.043 D. relates to the development of the individual abuse plans for each resident. The development of this plan would also be the responsibility of the facility administration and staff. The development of the policies

and the establishment and review of the plans would be performed by facility staff. A correction order issued under one of the provisions of this rule could be corrected by facility staff without reliance on outside resources; e.g. the necessary policies would be developed by staff, the staff would monitor compliance with the provisions calling for the establishment of the plan, steps would be taken by facility staff to review existing plans, etc. The 14 day time period for a violation of one of these provisions is reasonable.

7 MCAR §1.043 E. relates to the development of the internal reporting system. This requirement would also be met by facility staff. The establishment of the mechanism, the designation of individuals, the record keeping requirements and explanations to residents would all be done by facility staff without the need for reliance on outside resources. Any order issued under one of the provisions of this section could be corrected by the facility. The 14 day time period is reasonable.

The last section, 7 MCAR §1.043 F. requires that the facility notify its staff of the mandatory reporting requirements and provide orientation and inservice training on the abuse plans and the reporting system. These provisions would also be carried out by facility staff and any orders issued could be corrected by the facility without reliance on outside resources. The 14 day time period is reasonable.

C. Decreasing the time allowed for correction

> C. Decreasing the time allowed for correction. The department shall allow the nursing home the period of time for correction specified in section A. unless the department determines that a violation must be corrected within a shorter time because noncompliance will jeopardize the health, treatment, safety, comfort, or well-being of the

nursing home residents. If the department orders a shorter period of time for correction, that time period must be specified in the correction order and must be related to the nature of the violation and the interests of the residents. No provision in 7 MCAR §1.058 prevents the department from ordering immediate correction of a deficiency if necessary to protect the health, treatment, safety, comfort, and well-being of the nursing home residents.

As previously mentioned, the amendments to this rule have not altered the provisions relating to the procedure to be followed for requesting an extension of the allowable time period for correction. However, the Department feels that it is also necessary to incorporate a provision to decrease the allowable time for correction in the event that noncompliance for the time provided in the rule would jeopardize the interests of the nursing home's residents. The requirement that a period of time for correction be specified in rule has the effect of forcing the Department to comply with these provisions. In some situations, the length of time mandated in the rule could allow a condition posing serious risks to the residents to continue for 14, 30 or 60 days. In certain instances, strict compliance with the rule could result in harm to the nursing home residents. It should be noted that this provision would only apply to those rules which have a time period specified in the rule. (These amendments and the October, 1980 amendments.) Time periods for correction for the other rules are set by Department staff based upon a consideration of the severity of harm that could occur and the time required by the nursing home to correct. The proposed rule states, as a general rule, that the Department will allow the nursing home the period of time established in Section A. However, the rule will allow the Department the discretion to reduce that time period if it determines that noncompliance for that period of time could jeopardize the health, safety, treatment, comfort or well-being of the residents. For example, 7 MCAR §1.046 L.2.e.

requires that the Director of Nursing be responsible for providing training to the nursing home staff regarding the procedures to be followed for the administration of oxygen. A 14 day time period was assigned to this rule since compliance could be obtained by the scheduling of training sessions by the Director of Nursing. However, if the Department observes or is made aware of an improper practice by a member of the nursing staff, the continuation of this practice for a 14 day period could result in serious harm or to the death of the resident. To be bound by the strict provisions of the rule in such a situation would be absurd. Since the facts surrounding a violation of a rule constantly differ and since the consequences of noncompliance cannot be foreseen, the prospective setting of time periods is inherently difficult. For that reason, it is necessary to assure that the Department's responsibility to enforce the licensure rules in a manner which will not jeopardize a resident's health or safety is not unduly restricted.

The Department believes that the rule sets an enforcable standard since the time periods would only be reduced in instances where the health, safety, treatment, comfort or well-being of a resident is jeopardized. The rule will require that the time period be stated in the order and also that the time period selected be based on the nature of the violation and the interests of the residents.

The rule also specifically states that nothing in 7 MCAR §1.058 will prevent the Department from ordering an immediate correction of a deficiency if necessary to protect the health, treatment, safety, comfort and well-being of the residents. The Department feels that this requirement is also necessary to assure that immediate correction of a serious deficiency can be

ordered regardless of the time period specified in the rule.

7 MCAR § 1.337 General Provisions (pertaining to Dual Option Requirements of the Health Maintenance Organization Rules)

B. Applicability to employers.

1.-4. (Unchanged.)

5. An employer which is preempted from complying with Minnesota Statutes, Section 62E.17, subdivision 1, as a result of the Employee Retirement Income Security Act, United States Code, title 29, section 1144(a) and 1144(b)(2)(B) is not an "applicable employer" for the purposes of 7 MCAR §§ 1.366 to 1.380.

Minn. Stat. § 62E.17, Subd. 4 grants rulemaking authority to the Commissioner to adopt rules as necessary to implement the provisions of Minn. Stat. § 62E.17. The Commissioner exercised this authority in promulgating 7 MCAR § 1.377 to 1.380. The Commissioner now deems it necessary to add a new clause to Section 1.377.

The Dual Option provision of the HMO rules requires certain employers to offer employees an option of health insurance or HMO coverage if a dual option is available. The rules furthermore establish the process for implementation of this provision.

Subsequent to the promulgation of these rules, it has become apparent that the enforceability of the statute and the rules in this matter are significantly affected by the Employee Retirement Income Security Act of 1974 (ERISA). In Section 514(a), (b)(2)(B) of ERISA broad preemption of state laws is established in regard to employee benefit plans.

Court decisions on this matter have made it more clear that Minn. Stat. § 62E.17 and the dual option rules are preempted. For example, the result of the St. Paul Electrical Workers Welfare Fund v. Markman, 490 F. Supp. 931 (1980)

was to, among other results, enjoin the operation of Minn. Stat. § 62E.17 as to certain employers. That case held that the federal ERISA law preempted the application of the Minnesota Comprehensive Health Insurance Act. A copy of the St. Paul Electrical Workers case is attached.

The Commissioner believes that the rules adopted under the above statute are likewise preempted. Accordingly, it is appropriate that this rule be promulgated to disclosed the preemption to the extent of ERISA applicability. Specific exemption from the application of ERISA is provided for government employers, churches, and certain other employers.

This rule is also proposed as a result of the recommendation of the Legislative Commission to Review Administrative Rules on February 24, 1982. Their recommendation was that the Commissioner amend 7 MCAR § 1.377 to exclude ERISA-covered employers from regulation under these rules, at the next appropriate set of rules hearings. Attached is a copy of the recommendation.

Therefore, this rule is reasonable and necessary in order to clarify the relationship of the federal ERISA law to this State law and rule. The Commissioner believes that the public is served by rules which most accurately describe the enforceability of a state law and rule where federal law interacts.

Plaintiffs argue that an insurer choosing not to comply with the statute must stop selling insurance in the state and therefore breach its contractual obligations on outstanding non-cancelable and guaranteed renewal contracts. The argument assumes that an insurer cannot continue to renew policies in this state after it has stopped doing business in this state. But this is an unjustified assumption. Since an insured has a contractual right to renew non-cancelable and guaranteed renewal policies, permitting the insurer to renew those types of policies merely authorizes an insurance company to honor contractual obligations under outstanding contracts. An *insured* may enforce its rights under a policy even though the *insurer* is no longer licensed to do business in the state. Minn.Stat. § 72A.41, subd. 3. *See also, American Mutual Services Corp. v. United States Liability Insurance Co.*, 293 F.Supp. 1082 (E.D.N.Y.1968); *Ganser v. Fireman's Fund Insurance Co.*, 34 Minn. 372, 25 N.W. 943 (1885).[9]

The court has considered other arguments urged by plaintiffs but finds them without merit. We declare the challenged statutes to be a valid exercise of legislative authority within the Constitution and direct the clerk to enter judgment for defendants.

ST. PAUL ELECTRICAL WORKERS WELFARE FUND, a Trust, Electrical Workers Health and Welfare Fund, a Trust, Twin City Pipe Trades Welfare Fund a Trust, Sheet Metal Workers 547 Welfare Plan, a Trust, Minnesota Wisconsin Health and Welfare Plan, a Trust, St. Paul Chapter, National Electrical Contractors Association, a Minnesota Not For Profit Corporation, Weber Electric, Inc., a Minnesota Corporation, Thomas R. Frantes and Frank Horak, in their own behalf as Trustees of Twin City Pipe Trades Welfare Fund, and Clyde W. Millerberud and John J. Galles, Plaintiffs,

v.

Michael D. MARKMAN, Commissioner of the Insurance Division of the Department of Commerce of the State of Minnesota; Minnesota Comprehensive Health Association, a Minnesota corporation, and Clyde E. Allen, Commissioner of Revenue for the State of Minnesota, Defendants.

Civ. No. 3-78-269.

United States District Court,
D. Minnesota,
Third Division.

May 21, 1980.

Beneficiaries and trustees of employee welfare trust brought suit contending that the Minnesota Comprehensive Health Insurance Act was preempted by the Employee Retirement Income Security Act as applied to trustees of employee welfare benefit plans and employers who establish such plans. On the beneficiaries' and trustees' motion for summary judgment, the District

9. Minn.Stat. § 72A.41 makes it unlawful for an insurance company to transact business without a certificate of authority. "Transaction of business," includes "The collection of a premium," . . . or (d) the transaction of any matter subsequent to the execution of [an insurance] contract . . ." *Id.* at subd. 2. Subdivision 3 provides that the "failure . . to obtain a certificate of authority shall not impair the validity of any act or contract of such company . . ." Honoring its obligations under outstanding insurance contracts, after its certificate of authority has been suspended, can therefore not be deemed to be the illegal transaction of insurance business. *See also*, Minn.Stat. § 60A.05, after revocation or suspension of a foreign insurer's certificate of authority "no *new* business shall thereafter be done by it . . ." (emphasis added.)

Court, Devitt, Chief Judge, held that insofar as the Act subjected employee welfare benefit plans and employers who funded those plans to substantive and reporting requirement provisions of the state insurance laws, the Act was preempted by ERISA.

Motion granted.

Insurance ⇐4.1
States ⇐4.4

Insofar as Minnesota Comprehensive Health Insurance Act subjected employee welfare benefit plans and employers who funded those plans to substantive and reporting requirement provisions of Act, Act was preempted by Employee Retirement Income Security Act. M.S.A. §§ 62A.16, 62A.17, 62E.01 et seq.; Employee Retirement Income Security Act of 1974, § 514(a), (b)(2)(B), 29 U.S.C.A. § 1144(a), (b)(2)(B).

William K. Ecklund and James M. Dawson, Felhaber, Larson, Fenlon & Vogt, P.A., and William M. Bradt, Hansen, Dordell & Bradt, St. Paul, Minn., for plaintiffs.

Warren Spannaus, Atty. Gen., Richard B. Allyn, Chief Deputy Atty. Gen., and Karen G. Schanfield, Sp. Asst. Atty. Gen., St. Paul, Minn., for defendants.

MEMORANDUM AND ORDER

DEVITT, Chief Judge.

Plaintiffs move for summary judgment and seek a declaratory judgment and a permanent injunction arguing, *inter alia*, that the Minnesota Comprehensive Health Insurance Act, Minn.Stat. § 62E.01 *et seq.*, and Minn.Stat. §§ 62A.16, 62A.17, as applied to trustees of employee welfare benefit plans and employers who establish such plans, have been pre-empted by the Employee Retirement Income Security Act. (ERISA), 29 U.S.C. § 1001 *et seq.* In addition, plaintiffs argue that the Act is preempted by the National Labor Relations Act and that the Act violates the privilege and immunities and the contract clauses of the United States Constitution. This case was combined with *Insurer's Action Council, Inc., et al. v. Markham, et al.*, D.C., —— F.Supp. ——, Civ. 3–76–440, as a companion case. The parties submitted a stipulation of facts on the ERISA pre-emption issue. Arguments were heard on April 25 and May 5, 1980.

Based upon the stipulation of facts, briefs, arguments and the record, the court finds that the Minnesota Comprehensive Health Care Act, to the extent set forth herein, is pre-empted by section 514(b)(2)(B) of the Employee Retirement Income Security Act, 29 U.S.C. § 1144(b)(2)(B). Accordingly defendants are permanently enjoined from enforcing the provisions of the Act against the employer or trust plaintiffs.

ERISA Pre-emption

This case presents, once again, the complex issue concerning the scope of section 514 of the Employee Retirement Income Security Act. 29 U.S.C. § 1144(a).

Plaintiffs object to the attempt by the state of Minnesota to regulate the employee welfare benefit plans or employers who fund those plans. Plaintiffs are beneficiaries and trustees of an employee welfare trust, an association of employers organized for purposes of collective bargaining and a member of that Association.

Minn.Stat. § 62E.10, subd. 1 requires all "insurers, self insurers, fraternals and health maintenance organizations" to join the association. The association is a tax exempt association, *Id.*, created for purposes of providing reinsurance to insurers, Minn.Stat. §§ 62E.04, subd. 6, 62E.10, subd. 7, and to underwrite and administer a state plan which is designed to make available adequate insurance coverage to the high risk or uninsurable. Minn.Stat. §§ 62E.08, 62E.10 and 62E.11. "'Self insurer,' means an *employer* or an *employee welfare benefit fund or plan* which directly or indirectly provides a plan of health coverage to its employees and administers the plan of health coverage itself or through an insurer, trust or agent . . ." Minn.Stat. § 62E.02, subd. 21 (emphasis added). Failure to maintain membership in the associa-

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ion can result in termination of the mem-er's right to do business in the state. Minn.Stat. § 62E.10, subd. 3.

The self-insurers are subject to certain annual reporting requirements which include, ". . . the self insurer's total cost of self insurance and other information the commissioner may by rule require relating to the self insurer's plan of health coverage." Minn.Stat. § 62E.035. In addition self-insurers must include in their plans of insurance, a continuation provision permitting resident employee insureds to continue coverage for up to six months after termination of employment; Minn.Stat. §§ 62E.16, 62A.16 and 62A.17, and a conversion privilege, permitting insureds under a group policy to convert the group coverage to an individual insurance policy.

The Act imposes additional requirements on employers. The Act requires that employers who make available health care coverage to their employees provide a number 2 qualified plan. Minn.Stat. § 62E.03, subd. 1; and a dual option. Minn.Stat. § 62E.17, subd. 1. The qualified plan provision sets forth specific minimum coverage requirements, which include major medical coverage. Minn.Stat. §§ 62E.06, subd. 1(a), subd. 2; the plan must be submitted to the Insurance Commission for certification. Minn. Stat. § 62E.05. Failure to comply can result in loss of tax benefits. Minn.Stat. § 62E.03, subd. 2. The dual option provision requires certain employers to offer the qualified plan coverage through either an accident and health insurance contract or a health maintenance organization contract. Minn.Stat. § 62E.17, subd. 1.

The employee benefit plans here in question provide health and welfare benefits to participants, are established pursuant to a written agreement between the union and an employer or group of employers and are administered by a Board comprised of an equal number of representatives from labor and management. The trustees of the plans are authorized to provide the benefits through the purchase of insurance or as self-insurers. With one exception, however, all plans act as self-insurers for purposes of all benefits. The Sheetmetal Workers 547 Welfare Plan contracts with an insurer to underwrite insurance over a stop loss amount but is self insured below that amount.

The plans are employee welfare benefit plans and are subject to the reporting and fiduciary responsibility provisions of ERISA. None of the plans meet the qualified plan, dual option or conversion requirements of Minn.Stat. §§ 62E.01 *et seq.*; 62A.16 and 62A.17. Each of the employer and trust plaintiffs meet the definition of "self-insurer," Minn.Stat. § 62E.02, subd. 21, and are treated as self-insurers by defendants.

It is therefore clear that the Minnesota Comprehensive Health Insurance Act subjects employee welfare benefit plans and employers who fund those plans to substantive and reporting requirement provisions of the state insurance laws. The issue here is whether the state insurance law provisions, as applied to plaintiffs, are pre-empted by section 514 of ERISA.

The scope of section 514 is set forth in three sections. Section 514(a) creates a broad pre-emption covering "any and all state laws" "relate[d] to any employee benefit plan." 29 U.S.C. § 1144(a). Section 514(b)(2)(A) creates an equally broad exemption to the pre-emption provision covering "any law of any State which regulates insurance, banking or securities." Subparagraph (B) of that subdivision limits the scope of the (2)(A) exemption, by prohibiting states from "deeming" employee benefit plans or trusts to be insurance companies for purposes of subjecting those plans to state regulations. There is no doubt that the provisions here in question "relate to" employee benefit plans, and that they are part of an insurance law. This case turns on the scope of the "deemer" provision of section 514(b)(2)(B).

> Section 514(b)(2)(B) provides *inter alia*, Neither an employee benefit plan . ., nor any trust established under such a plan, shall be deemed to be an insurance company or other insurer . . . or to be engaged in the business of insurance

. . . for purposes of any law of any State purporting to regulate insurance companies . . . .

The provisions here in question fall squarely within the prohibitions of Section 514(b)(2)(B) and are therefore not entitled to the insurance law exemption provisions of Section 514(b)(2)(A). Minnesota statutes section 62E.02, subd. 21 specifically defines employee welfare benefit funds or plans as self-insurers, and thereby subjects the plan to additional reporting, § 62E.035, and membership § 62E.10, requirements. The Act has thus subjected the benefit plans to regulations addressed to traditional insurers and therefore falls outside the insurance law savings clause. *Wadsworth v. Whaland*, 562 F.2d 70, 76 (1st Cir. 1977) *cert. denied* 435 U.S. 980, 98 S.Ct. 1630, 56 L.Ed.2d 72 (1978); *Hewlett-Packard Company v. Baines*, 425 F.Supp. 1294 (N.D.Cal.) *aff'd* 9 Cir., 571 F.2d 502 *cert. denied* 439 U.S. 831, 99 S.Ct. 108, 58 L.Ed.2d 125 (1978).

Defendants argue that the pre-emption provision of ERISA applies only to state laws regulating areas covered by ERISA and that the Minnesota Act does not do so. Though that argument may well apply where the regulation of pension plans is indirect, *Wadsworth, supra; Insurer's Action Council v. Heaton*, 423 F.Supp. 921, 926 (D.Minn.1976), the argument cannot prevail where, as here, the state attempts to directly regulate the pension plans by "deeming" the plans to be self-insurers. *Wadsworth, supra* at 76 ("in the event [that] they are [insurers] we would have no difficulty finding explicit pre emption by ERISA notwithstanding the saving clause.")

It is no answer to argue that the Act is not pre-empted because it subjects the employee benefit plans to some insurance regulations rather than the entire scheme of insurance laws, and that the provisions governing the content of insurance policies are not of a nature requiring uniform national legislation. Section 514(b)(2)(B) prohibits treating employee benefit plans as insurers "for purposes of *any law* of any state purporting to regulate insurance companies, . . ." (emphasis added), and where "Congress' command is explicitly stated in the statute's language" pre-emption must be found. *Jones v. Rath Packing Company*, 430 U.S. 519, 525, 97 S.Ct. 1305, 1309, 51 L.Ed.2d 604 (1979) (dictum). The court need not, therefore, consider the degree of conflict, *See Jones, supra*, at 533–43, 97 S.Ct. at 1313–1318, the pervasiveness of the federal statutory scheme, *City of Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624, 93 S.Ct. 1854, 36 L.Ed.2d 547 (1973), or the need for national uniformity, *Id.* at 639, 93 S.Ct. at 1862, in holding that the provisions of the Minnesota Act have been pre-empted by ERISA.

[The court finds no significant distinction between the provisions expressly governing employee benefit plans and those directed at employers. The employer provisions do not apply to all employers but only to those who "provide[s] or make[s] available . . . a plan of health coverage . . . ." Minn.Stat. §§ 62E.03; 62E.17. The statute purports to regulate employers only to the extent that the employers provide welfare benefit plans. The provisions governing the employer, therefore, constitute a direct regulation of the employee benefit plans.]

[In granting summary judgment the court holds only, that where the state attempts to directly regulate employee benefit plans under the auspices of the insurance laws, that such regulations fall within the express language of section 514(b)(2)(B) and must therefore give way to the federal law. This case does not concern legislation directed solely at insurance companies which may have the effect of regulating the contents of all insurance policies, including those which are part of an employee welfare benefit plan.]

To the extent that the provisions of Minn. Stat. § 62E.01, *et seq.* and §§ 62A.16 and 62A.17 purport to directly regulate employee welfare benefit plans, the trust, funds established under such plans, and employers who provide the plans, they are pre-empted by section 514(b)(2)(B). The court need not therefore consider the remaining issues presented. Summary judgment is GRANTED in favor of plaintiffs, defendants are

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manently ENJOINED from enforcing above provisions to the extent set forth ein.



TRANSAMERICA INSURANCE COMPANY

v.

ELLEFONTE INSURANCE COMPANY

and

Roussel Corporation.

Civ. A. No. 78-431.

United States District Court, E. D. Pennsylvania.

May 21, 1980.

Declaratory judgment action was ought to determine which of two liability surers was obliged to defend and/or indemnify drug manufacturer. On motions r summary judgment, the District Court, annum, J., held that: (1) fetuses were ersons" capable of sustaining "bodily inry" within meaning of liability policies, id (2) where drugs were ingested by pregnt women during time that first insurer ovided drug manufacturer with coverage r bodily injury but deformed children ere born during period that second insurer ovided coverage, insurable "occurrence" curred during first insured's policy, at me fetuses' limbs began to grow in a eformed manner, for purposes of childrens' uses of action, but separate insurable "ocurrence" occurred during second policy pe od, when parents became aware of chilren's deformities at birth, for purposes of arents' causes of action.

Motions denied.

1. Insurance ⇐435(1)

Fetuses were "persons" capable of sustaining "bodily injury" within meaning of liability policies.

See publication Words and Phrases for other judicial constructions and definitions.

2. Insurance ⇐178.2

Where drugs were ingested by pregnant women during time that first insurer provided drug manufacturer with coverage for bodily injury but deformed children were born during period that second insurer provided coverage, insurable "occurrence" occurred during first insured's policy, at time fetuses' limbs began to grow in a deformed manner, for purposes of childrens' causes of action, but separate insurable "occurrence" occurred during second policy period, when parents became aware of children's deformities at birth, for purposes of parents' causes of action.

James M. Peck, Duane, Morris & Heckscher, Philadelphia, Pa., for plaintiff.

Francis E. Marshall, Marshall, Dennehey & Warner, Philadelphia, Pa., for Bellefonte Insurance Co.

Marvin V. Ausubel, Trubin, Sillcocks, Edelman & Knapp, New York City, for Roussel Corp.

MEMORANDUM AND ORDER

HANNUM, District Judge.

I. *Case History and Factual Summary.*

On February 9, 1978, the plaintiff Transamerica Insurance Company [hereinafter "Transamerica"], filed this Complaint seeking declaratory judgment relief pursuant to 28 U.S.C. § 2201. The essence of the action requires a determination concerning which of the two insurance companies, Transamerica and/or the defendant Bellefonte Insurance Company [hereinafter "Bellefonte"], provided insurance coverage to the defendant Roussel Corporation [hereinafter "Roussel"] with respect to suits "brought by or on behalf of persons after the expiration of Transamerica's policy period." Presently

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Planning & Resources Co. Section
MAR 10 1982



LCRAR

Legislative Commission to Review Administrative Rules

Senator Timothy J. Penny
Chairman
Representative Paul McCarron
Vice-Chairman

Kathleen P. Burek
Executive Director

March 1, 1982

RECEIVED
MAR - 5 1982
DIVISION OF
HEALTH SYSTEMS

Dr. George Petterson
Commissioner
Department of Health
717 Delaware Avenue S.E.
Minneapolis, MN 55440

Dear Dr. Petterson:

I am writing to inform you of the action which the LCRAR has taken with respect to the Health Department rule 7MCAR 1.738A.2. As you are aware, we held a hearing on this rule, at the request of Representative Tad Jude, on February 1. The Commission met again on February 24 to hear staff recommendations on this issue. The Commission voted to adopt Senator Wayne Olhoft's recommendation that your department amend 7MCAR 1.377A.1, to exclude ERISA-covered employers from regulation under your rules, at the next appropriate set of rules hearings. We understand this exclusion is the current practice of your department, on advice of your counsel. Mr. Wayne Carlson of your staff informs us that you will be issuing an administrative bulletin to inform the HMO's and employers your department regulates your policy of excluding ERISA employers. The LCRAR does not ordinarily approve of "policies" and "bulletins" in place of rules, but we understand the cost constraints your department faces. Further, this policy seems to be dictated by federal law, leaving your department with little option.

The enclosed minutes and staff report will provide you with additional information. Please feel free to contact Kathy Burek, our Executive Director, if you have any further questions.

Sincerely,

Senator Tim Penny
Chairman, LCRAR

TP:lsh
Encls.

cc: Wayne Carlson

Room 430, State Office Building • St. Paul, Minnesota 55155 • (612) 296-1143

Minutes of the LCRAR meeting on February 24, 1982, in Room 118, State Capitol, at 6:00 P.M.

MEMBERS PRESENT:

Senator Tim Penny, Chairman
Senator Wayne Olhoft
Senator Glen Taylor
Representative Wayne Simoneau
Representative Tom Berkelman
Representative Dave Fjoslien

MEMBERS ABSENT:

Representative Paul McCarron
Representative Bill Peterson
Senator Bill Luther
Senator Carl Kroening

STAFF PRESENT:

Ms. Kathy Burek, Executive Director
Ms. Terri Lauterbach, Counsel
Lorraine Hartman, Secretary

Senator Tim Penny called the meeting to order at 6:10 P.M. with a quorum present. Senator Penny asked Ms. Burek to give a short summary of the final report on the Department of Health rule 7MCAR 1.738A.2, relating to the offer of a dual health care option under collective bargaining.

Ms. Burek read the report with the following recommendations:

Staff recommends that the policy committees be asked to review the Minnesota Comprehensive Health Care Act, especially M.S. 62E.17, in light of St. Paul Electrical Workers vs. Markman, with the purpose of clarifying the duties of employers and bargaining units with regard to health care benefit packages.

Staff recommends that the Health Department amend 7MCAR 1.377A.1, using the noncontroversial rulemaking procedure, to exclude employers covered by ERISA from regulation under this rule. Notice of intent to adopt a rule without a public hearing should appear in the State Register by June 30, 1982.

There being no questions by the members, the chairman asked if anyone from the Health Department wished to comment.

Mr. Wayne Carlson from the Health Department stated that he had visited with Ms. Burek regarding these recommendations. He stated that the Health Department asked if they might issue an administrative bulletin on the second recommendation to the HMO's and employers that they deal with pointing out that the federal Act has pre-empted this in the ERISA provisions on this and then at a later date when they take their HMO rules for other kinds of change, that they just build this change in at that time. This is strictly a matter of costs. Mr. Carlson asked that the Commission allow them to do this in place of the second recommendation.

Senator Olhoft moved that the Commission adopt both of the recommendations with the following modification to the second recommendation: Staff recommends that the Health Department amend 7MCAR 1.377A.1 at its next appropriate set of ruleshearings to exclude employers covered by ERISA from regulation under this rule. Ms. Burek suggested that it might be included in Senator Olhoft's motion that the Health Department be directed to issue an administrative bulletin as suggested by Mr. Carlson. Senator Penny stated that it could be but that he felt the Department had already agreed to do that. Mr. Carlson said, yes, that they would go ahead with the administrative bulletin as stated earlier.

Chairman asked Rep. Tad Jude, who brought this complaint before the Commission, if he wished to comment. Rep. Jude stated as he understands it now that the Department is being asked to conform to the latest court rulings but not what is on the law books in the state. He stated that he felt it had taken a turn which he didn't envision and didn't completely approve of but did not feel in the position to overturn the court decision.

Chairman further explained that for the time being the best that the Commission can do is to provide rules that are consistent with the provisions of ERISA and let the policy committees of the legislature look at the matter for clarification. There being no further discussion, chairman renewed Senator Olhoft's motion that the Commission adopt both of the recommendations,changing the second recommendation as stated by Senator Olhoft. MOTION CARRIED.

Meeting adjourned at 6:25 P.M. Meeting was taped.

Lorraine Hartman, Secretary

Senator Tim Penny, Chairman

7 MCAR §1.392 Schedule of fines for uncorrected deficiencies - supervised living facilities

General comments

The licensure rules for supervised living facilities, adopted in 1974, did not include a schedule of fines for noncompliance with correction orders. While these facilities, which are licensed under the provisions of Minn. Stat. §§144.50 - .56 are subject to the issuance of correction orders, the Department has not adopted a schedule of fines which is required if penalty assessments are to be issued. Since the SLF rules have not previously been amended there has not been the opportunity to develop a schedule of fines applicable to this class of licensed facilities. However, since the rules relating to pets and to the implementation of the Vulnerable Adult Abuse Act will apply to supervised living facilities, this schedule of fines is required.

It is clear; however, that supervised living facilities are subject to the issuance of penalty assessments. Minn. Stat. §144.653, subd. 6 specifically applies to all facilities licensed under the provisions of Minn. Stat. §§144.50 - .58. That statute requires that a penalty assessment be issued if a facility fails to comply with the provisions of a correction order. The only obstacle which has prevented the issuance of assessments to SLFs has been the absence of a schedule of fines in rule.

The schedule of fines pertains only to the pet rule and the VAA rule and is based on the criteria used to adopt the schedule of fines for nursing homes and boarding care homes in 1975. While the provisions of Minn. Stat. §144.653, subd. 6 authorize fines of up to $1,000.00, the Department does not wish to exercise that authority at this time. Eventually, all provisions of the SLF

rules will be subject to the issuance of an assessment. At the time of the development of that rule, further consideration as to the development of new fine categories will be explored. Until that time, the Department believes that the criteria used in 1975 for the nursing home and boarding care home rules are appropriate to the SLF setting. The criteria will be found in Appendix D.

As noted in Appendix D, the criteria utilized to support the 1975 fine schedule was based on the impact that noncompliance with a rule would have on the health or safety of a facility resident. The criteria identified five provisions to be considered in determining whether a particular rule would be subject to the minimum fine of $50. If those five factors were not met, the rule would be subject to the maximum fine of $250. The approach taken to develop the schedule of fines for nursing homes and boarding care homes equally applies to a supervised living facility. The fine is based on the degree of harm that noncompliance with a rule would present to a facility resident. The Department is charged with the responsibility of protecting the interests of all residents in a health care facility regardless of the licensure classification of the particular institution. The fine schedule is based on the impact that a violation of a rule would have on a resident and the degree of harm presented by a violation of a rule applicable to all classifications of licensed facilities would be the same. The SLF fine schedule is identical to the fine schedule contained in 7 MCAR §1.057 C., relating to boarding care homes, and the underlying criteria of the SLF fine schedule is similar to the criteria developed for the nursing home fine schedule, 7 MCAR §1.057 D.

The licensing law for supervised living facilities clearly establishes that a

SLF would be subject to the issuance of a fine and the law also specifies the procedure relating to the issuance of an assessment. Minn. Stat. §144.653, subd. 2 requires that all facilities required to be licensed under 144.50 - .58 be periodically inspected to insure compliance with the licensure laws and rules. If violations of the rules are documented during an inspection, the provisions of Minn. Stat. §144.653, subdvisions 5 and 6 specify the actions to be taken by the Department. Those provisions state:

> Subd. 5. Correction orders. Whenever a duly authorized representative of the state commissioner of health finds upon inspection of a facility required to be licensed under the provisions of sections 144.50 to 144.58 that the licensee of such facility is not in compliance with an applicable regulation promulgated under the administrative procedures act by the state commissioner of health pursuant to section 144.56, a correction order shall be issued to the licensee. The correction order shall state the deficiency, cite the specific regulation violated, and specify the time allowed for correction.
>
> Subd. 6. Reinspections; fines. If upon reinspection it is found that the licensee of a facility required to be licensed under the provisions of sections 144.50 to 144.58 has not corrected deficiencies specified in the correction order, a notice of noncompliance with a correction order shall be issued stating all deficiencies not corrected. Unless a hearing is requested under subdivision 8, the licensee shall forfeit to the state within 15 days after receipt by him of such notice of noncompliance with a correction order up to $1,000 for each deficiency not corrected. For each subsequent reinspection, the licensee may be fined an additional amount for each deficiency which has not been corrected. All forfeitures shall be paid into the general fund. The commissioner of health shall promulgate by rule and regulation a schedule of fines applicable for each type of uncorrected deficiency.

The Department has issued correction orders to supervised living facilities since the enactment of this law. However, since a schedule of fines applicable to the SLF rules had not been promulgated, it was not possible for the Department to issue a penalty assessment if the facility failed to comply with the correction order in the time specified in the order. It is the Department's position that the promulgation of the rules at this time requires that a schedule of fines corresponding to those rules also be developed. The failure

to develop a schedule of fines applicable to the current SLF rules does not preclude the promulgation of the proposed fine schedule at this time.

It should be noted that the law governing the issuance of penalty assessments clearly states that a facility will not be subject to a fine unless it has failed to comply with the previously issued correction order. The correction order identifies the rule violated and cites the deficiency. The facility is then provided a period of time to attain compliance. The facility will not be assessed unless the required reinspection demonstrates that the corrective actions have not been taken. Minn. Stat. §144.653, subd. 8 provides that the facility can request a hearing on any assessment issued to it.

The correction order/penalty assessment mechanism as applied to nursing homes and hospitals has provided an effective mechanism to enforce compliance with the licensure laws by providing a method to guarantee that a licensee meets its responsibilities imposed under the licensure laws. The mechanism only penalizes those facilities that have failed to initiate steps to come into compliance with the violations noted in the correction order. While the schedule of fines is based on the severity of harm that could result due to the failure to make corrections, the fines must also be considered as a sanction against the licensee for disregarding a correction order and allowing a state of noncompliance to continue. Such inaction on the part of the licensee is a deliberate violation of the statutory requirements imposed upon the licensee and clearly justifies the imposition of a fine.

The Department believes that this rule is directly required by the statutory provisions discussed above. The law clearly calls for the development of the

schedule of fines and the Department's promulgation of the schedule of fines applicable to nursing homes and boarding care homes has been consistently upheld in contested case proceedings as well as in judicial appeals. Three District Court decisions relating to the development and implementation of the fine schedule are attached as Appendix G. While those decisions specifically relate to the enforcement of the law as applied to nursing homes, the decisions would be equally applicable to supervised living facilities. The decisions discuss the constitutionality of the law, the mandatory imposition of fines and the mandatory amount of fines.

The Department also believes that the use of the 1975 criteria to support this fine schedule is reasonable. As previously mentioned, the criteria is based on the impact that noncompliance would have on residents in a facility. Since the schedule of fines enumerated in 7 MCAR §§1.3920. 1.a. - q. and 2.a. - y. is identical to the boarding care home schedule of fines contained in 7 MCAR §§1.057C. 1.a. - g. and 2.1. - y. a specific discussion of the provisions of the SLF fine schedule is not provided. Rather, the Department relies on and incorporates the provisions establishing the need for and reasonableness for the boarding care home schedule of fines to support the need for and reasonableness of this rule.

APPENDICES

APPENDIX A - April 29, 1982 Memo from Commissioner Pettersen A-1

APPENDIX A-1 - In the Matter of the Proposed Adoption of Rules Governing the Identification, Labeling, Classification, Storage, Collection, Transportation and Disposal of Hazardous Wastes and Amendments to Minnesota Regulations SW1, 2, 3, 4, 6 and 7. Report of the Hearing Examiner, PCA-78-003-WS, pp 6-11. . . . . A-3

APPENDIX B - Proposed DPW Rules Concerning the Investigation and Reporting of Maltreatment of Vulnerable Adults in DPW Facilities. A-9

APPENDIX C - Minnesota Department of Health Memo Relating to the Implementation of the Vulnerable Adult Abuse Reporting Act. A-14

APPENDIX D - Excerpt from the 1975 Justification of the Department to Support the Promulgation of the Initial Schedule of Fines A-16

APPENDIX E - Excerpt from the 1980 Statement of Need and Reasonableness to Support the Promulgation of the Amendments to the Schedule of Fines A-20

APPENDIX F - Excerpt from the 1980 Statement of Need and Reasonableness to Suport the Promulgation of the Schedule of Allowable Times for Correction A-21

APPENDIX G - District Court Decisions Relating to Correction Order/Penalty Assessment System

1. Waite Park Nursing Home vs. Minnesota State Board of Health, Hennepin County District Court, File No. 731, 359, November 30, 1977. . . . . A-25

2. Waite Park Nursing Home vs. Minnesota Department of Health, Hennepin County District Court, File No. 731, 359, January 31, 1978 . . . . . A-31

3. Viewcrest Nursing Home, et al. vs. Commissioner of Health, Hennepin County District Court, File No. 758-150, January 9, 1981 . . . . . A-35

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440

April 29, 1982

TO : Interested Parties

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

SUBJECT: Nursing Home Rules

As you are probably aware, the Department's request to hold a public hearing on the entire package of proposed nursing home rules was modified by the Legislative Advisory Commission at its meeting on March 23, 1982, to promulgating only those nursing home rules which will have no fiscal impact. The Department expects continuing discussion on these rules in legislative committee hearings during the next session.

The Department is currently preparing proposed rules and amendments of rules which will be presented at public hearing this summer. The proposed rules will amend existing nursing home and boarding care home rules as well as establish new standards, as required by statute, which will be applicable to all health care facilities. The rules include the following:

1. Licensure rules. (Nursing homes) The amendments will provide for the implementation of the licensure requirements contained in Minn. Stat. §144A.01 - .17. This includes the provisions requiring the disclosure of controlling persons and managerial employees, the procedures for processing transfers of interests and provides the Department the authority to issue conditional or limited licenses.

2. Vulnerable Adult Abuse Act. (All health care facilities) The rule will address following provisions contained in Minn. Stat. §626.557, the development of the facility abuse prevention plans, individual abuse prevention plans for each resident and the establishment of the internal mechanism for the reporting of abuse.

an equal opportunity employer

3. Pets. (All health care facilities) The amendments will establish the provisions relating to the keeping of pet animals in a health care facility.

4. Personal fund accounts. (Nursing homes and boarding care homes) The Department will propose an amendment from the current requirement that the facility provide access to funds 7 days per week. The proposed amendment will allow the facility to establish, by policy, the periods for withdrawing funds. However, if withdrawal periods are not provided 7 days per week, the facility will be required to have some arrangement to meet the needs of the residents on days when formal withdrawal periods are not provided.

5. Medication aides. (Nursing homes and boarding care homes) The amendment will incorporate into the licensure rules the present certification requirement governing the training of unlicensed personnel who administer medications.

Once the amendments have been approved by the Revisor of Statutes Office, copies will be available for distribution. If you have any questions on these rules, please call Mike Tripple, Survey and Compliance Section, (612) 296-5448.

of the residues. Not actually equipped to handle waste disposal, the St. Louis firm contracted with the Bliss Waste Oil Company to remove the material. The Company is owned and operated by Russel Bliss, who deals in waste oil, lubricants, organic solvents, and transformer oils generated by automobile service stations and industrial sources. For many years, Mr. Bliss had been spraying the nonrefinable grades of waste oils on horse arenas as a means of dust control.

From February to October, 1971, the Bliss Waste Oil Company transferred six truckloads (approximately 18,000 gallons) of industrial residues containing about 300 ppm dioxin from the original storage tank to its own storage tanks in eastern Missouri. Three horse arenas and a farm road on Mr. Bliss's own property are known to have received the dioxin-contaminated oil. The dioxin concentration of the soil in the most serious affected horse arena was analyzed at about 30 ppm. The overall toll in the four disposal areas can be summarized as follows: Ten persons developed toxic symptons (two children became seriously ill), and at least 63 horses died along with 6 dogs, 12 cats, 70 chickens, hundreds of birds, numerous rodents and insects. In addition, there were 26 known abortions and six birth abnormalities among the horses.

Two lawsuits, for a total of $954,000 in compensatory and punitive damages, had been filed by the former owners of one of the horse arenas against Bliss Waste Oil Company, et al. Also, a lawsuit for $60,000 has been filed by several horse owners against one of the other two horse arenas. The estimated total financial loss, based on filed lawsuits (excluding punitive damages), is close to $500,000.

8. Having determined that there is a need for rules to regulate hazardous waste, this Report will address the issue of whether the proposed rules are reasonable.

9. In determining the reasonableness of the within considered hazardous waste rules, the Examiner applied the following meaning to the word "reasonableness": "Reasonableness" is the opposite of arbitrariness and caprice. An arbitrary and capri

cious standard can be defined as follows:

> That standard [arbitrary and capricious] is a narrow one, to be applied only where administrative action "is not supportable on any rational basis" or where it is "willfull and unreasoning action, without consideration and in disregard of the facts or circumstances of the case."

Greenhill v. Bailey, 519 F.2d 5, 10 (8th Cir. 1975). Reasonableness, then, means to have a rational basis for the action.

In setting forth the findings that establish the rational basis for adoption of these hazardous waste rules, the Agency is not limited to only those facts that are supported by substantial evidence in the record. Rulemaking is a legislative function; it is not an adjudicatory function like a contested case is. There is a difference between the kind of facts relied on in a rulemaking hearing and the kind of facts relied on in an adjudication. Professor Kenneth Culp Davis identifies this difference:

> Two main elements in rulemaking are (1) facts, and (2) ideas about policies. The two are generally interwoven in such a degree that in some parts of the whole problem of what to do, they are inseparable. Even so, a main element in rulemaking is necessarily the policy choice that the administrator must make. Adoption of a rule may require some understanding of facts, but it always requires legislating. Courts must leave administrators free to legislate, within the limits of rationality. And legislating inevitably involves the addition of something to the facts in the rulemaking record.

K. Davis, Administrative Law of the Seventies, (Cumulative Supp. 1977) (emphasis in original).

The Minnesota Supreme Court has recognized the difference between legislative facts and adjudicatory facts and has identified the support needed to uphold the two kinds of facts. In St. Paul Area Chamber of Commerce v. Minnesota Public Service Comm'n., 251 N.W.2d 350 (Minn. 1977), the Court said:

> [T]he substantial evidence test of § 15.0425 [is] applicable to commission decisions only when it is acting in a quasi-judicial manner, in a role similar to that of a trial judge sitting without a jury. In cases where the commission acts primarily in a judicial capacity, that is, hearing the views of opposing sides presented in the form of written and oral testimony, examining the record, and making findings of fact, the administrative process is best served by allowing the district court to apply the substantial evidence standard on review. . . .

A-4

> . . .[H]owever, rate allocation is not a judicial or quasi-judicial function. Once revenue requirements have been determined it remains to decide how, and from whom, the additional revenue is to be obtained. It is at this point that many countervailing considerations come into play. The commission may then balance factors such as cost of service, ability to pay, tax consequences, and ability to pass on increases in order to achieve a fair and reasonable allocation of the increase among consumer classes. . . .It is clear that when the commission acts in this area it is operating in a legislative capacity, as the above cases have stated. The careful balancing of public policies and private needs is not a matter for the courts, unless statutory authority has been exceeded or discretion abused. . . .In ascertaining whether or not the statute has been contravened, the district court must give wide latitude to the commission in allowing it to consider many factors which might not ordinarily be considered by a court, as we have explained above. This is so because, while the court is qualified to review agency findings when an agency acts in a quasi-judicial manner in factual matters, it is not so qualifided to review legislative judgments when social policies must be weighed in the balance.

Id. at 356-357.

In the within considered rulemaking proceeding, many of the facts are legislative facts --policy decisions and judgments. A dermal toxicity value that distinguishes a hazardous waste from a nonhazardous waste is a legislative fact. There is no one right answer--there are only reasonable answers.

In another Public Service Commission ratemaking case, Northwestern Bell Telephone Co. v. State, 253 N.W.2d 815 (Minn. 1977), the Minnesota Supreme Court distinguished the two kinds of facts involved in exercising a legislative function. There the Court said:

> In determining the extent of the allowable adjustment, it appears that the PSC was acting in both a judicial and a legislative capacity. In finding as a fact the amount of the 1974 impact of the contract, the PSC's decision was amply supported by the evidence. In deciding to limit the adjustment to a one-year period, the PSC determined as a matter of public policy that changes occurring more than one year beyond the test year would best be considered in proceedings taking into account all of the facts necessary to accurately set Bell's rates. This determination cannot be said to be arbitrary or unjust. . . .

Id. at 822. See also, Northwestern Bell Telephone Co. v. State, 299 Minn. 1, 216 N.W.2d 841 (1974) and Reserve Mining Co. v. Herbst, 256 N.W.2d 808 (Minn. 1977).

Although the federal rulemaking process differs from that of Minnesota, it would be helpful to examine the federal system.

An example of a federal agency acting on legislative facts is Mourning v. Family Publications Service, Inc., 411 U.S. 356 (1973), where the U.S. Supreme Court upheld regulations of the Federal Reserve Board governing credit transactions of more than four installments. Professor Davis' discussion of the Mourning case is helpful:

> [T]he Supreme Court had no power to change "four" to three or five, because Congress had delegated that power to the Board and the Board had made its determination. On the question of what the number should be, the Court could do no more than determine whether "four" was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

K. Davis, Administrative Law of the Seventies, 206 (Cumulative Supp. 1977).

Dry Color Manufacturers' Ass'n v. Department of Labor, 486 F.2d 98 (3rd Cir. 1973), involved temporary emergency standards of the Department of Labor intended to prevent exposure to 14 chemicals found to be carcinogens. In striking down the regulations, the Court essentially said the Department did not have sufficient reasons for the regulations. Davis, however, is critical of the Court's decision:

> If carcinogenicity of the chemicals in humans can be neither proved nor disproved by scientific evidence, the problem for rulemakers is not one of fact; it is one of making a legislative choice of policy in light of the absence of evidence. When an agency is assigned the task of making rules that are in the public interest, it seldom can prove with evidence what is in the public interest; it has to use its policy preferences when proof is lacking.

K. Davis, Administrative Law of the Seventies, 674 (1976).

Some of the recent cases involving rulemaking by federal agencies in the environmental and health areas indicate the kind of latitude agencies have in making these legislative policy decisions. A leading example is Ethyl Corp. v. EPA, 541 F.2d 1, 8 E.R.C. 1785 (D.C. Cir. 1976), where the Court upheld regulations of the EPA requiring a reduction of lead in gasoline.

> Man's ability to alter his environment has developed far more rapidly than his ability to foresee with certainty the effects of his alterations. It is only recently that we have begun to appreciate the danger posed by unregulated modification of the world around us, and have created watchdog agencies whose task it is to warn us, and protect

> us, when technological "advances" present dangers unappreciated--or unrevealed--by their supporters. Such agencies, unequipped with crystal balls and unable to read the future, are nonetheless charged with evaluating the effects of unprecedented environmental modifications, often made on a massive scale. Necessarily, they must deal with predictions and uncertainty, with developing evidence, with conflicting evidence, and, sometimes, with little or no evidence at all. Today we address the scope of the power delegated one such watchdog, the Environmental Protection Agency (EPA). We must determine the certainty required by the Clean Air Act before EPA may act to protect the health of our populace from the lead particulate emissions of automobiles.
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> * * *
>
> . . .We find that deletion of the findings requirement for action under Section 211(c)(1)(a) [of the Clean Air Act] was a recognition by Congress that a determination of endangerment to public health is necessarily a question of policy that is to be based on an assessment of risks and that should not be bound by either the procedural or the substantive rigor proper for questions of fact.
>
> * * *
>
> . . .The Administrator may apply his expertise to draw conclusions from suspected, but not completely substantiated, relationships between facts, from trends among facts, from theoretical projections from imperfect data, from probative preliminary data not yet certifiable as "fact", and the like. We believe that a conclusion so drawn--a risk assessment--may, if rational, form the basis for health-related regulations. . . .
>
> All of this is not to say that Congress left the Administrator free to set policy on his own terms. To the contrary, the policy guidelines are largely set, both in the statutory term "will endanger" and in the relationship of that term to other sections of the Clean Air Act. These prescriptions direct the Administrator's actions. Operating within the prescribed guidelines, he must consider all the information available to him. Some of the information will be factual, but much of it will be more speculative--scientific estimates and "guesstimates" of probable harm, hypotheses based on still-developing data, etc. Ultimately he must act, in part on "factual isues", but largely "on choices of policy, on an assessment of risks, [and] on predictions dealing with matters on the frontiers of scientific knowledge . . . ." Amoco Oil Co. v. EPA, supra 163 U.S. App. D. C. at 181, 501 F.2d at 741. A standard of danger--fear of uncertain or unknown harm--contemplates no more.

Id. at 6, 24, and 28, 8 E.R.C. at 1786, 1801, and 1804-1805. The Amococase cited in Ethyl was another case by D. C. Circuit in which the court upheld for the most part regulations of EPA prohibiting use of leaded gasoline in automobiles fitted with

catalytic converters. Amoco Oil Co. v. EPA, 501 F.2d 722, 6 E.R.C. 1481 (D.C. Cir. 1974).

Another leading case in this area, and one relied on by the Ethyl court, is Industrial Union Department, AFL-CIO v. Hodgson, 499 F.2d 467 (D.C. Cir. 1974), involving a review of asbestos regulations promulgated by the Secretary of Labor. There the court said:

> From extensive and often conflicting evidence, the Secretary in this case made numerous factual determinations. With respect to some of those questions, the evidence was such that the task consisted primarily of evaluating the data and drawing conclusions from it. The court can review that data in the record and determine whether it reflects substantial support for the Secretary's findings. But some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual analysis.

Id. at 474 (footnote omitted).

10. Note must be taken that during the hearing process and before the close of the record, the Pollution Control Agency made various amendments to the proposed rules as originally published for hearing.

One of the principal benefits of a public hearing process is that it gives the administrator the benefit of criticisms and suggestions from representatives of the industries that will be regulated. It was just such a give-and-take process that prompted the Pollution Control Agency to amend the rules as finally proposed for adoption.

Because of such amendments, it will be necessary during certain portions of this Report, to specify whether an examination of the "reasonableness" of the proposed rules is being examined in light of the original proposal or the rules as finally proposed for adoption.

11. In determining the issue of "reasonableness", this Report will first examine the reasonableness of the wastes regulated by reason of being designated as "hazardous" pursuant to the proposed rules.

cathods, in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, as reported in said journal. The average market price of other metals and of mineral products per pound for each month shall be that quoted for their usual and customary shipping quantities, f.o.b. the usual and customary place of shipment, United States import duty (if any) included, as reported in said journal. If said journal or its successors ceases to furnish such quotations, or its quotations cease to be recognized in the trade, or a particular metal or mineral product is not listed, then the quotations of such other source as the parties may agree upon shall govern.

(10)-(15) Renumber as 10.-15.

(16) (aa)-(ee) Renumber and reletter as 16. a.-e.

(17)-(34) Renumber as 17.-34.

~~(h) [Section 8.] Effective date. These rules and regulations shall become effective upon filing of same in the offices of the secretary of state and commissioner of administration in accordance with Minnesota Statutes, 1965, Section 15.0413, and shall remain in full force and effect until modified, amended, or revoked.~~

Department of Public Welfare
Support Services Bureau

Proposed Rule Concerning the Investigation and Reporting of Maltreatment of Vulnerable Adults in DPW Facilities (12 MCAR § 2.010)

Notice of Hearing

A public hearing concerning the above entitled matter will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155 on June 15, 1982, commencing at 9:00 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon Lunde, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, 612/341-7645, either before the hearing or within five working days after the public hearing ends. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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 Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Rule 10 (12 MCAR § 2.010) establishes standards for the protection of vulnerable adults in facilities licensed by the Department of Public Welfare as established in Minn. Stat. § 626.557 (1980), "Reporting of Maltreatment of Vulnerable Adults."

This rule applies to all residential and nonresidential programs providing services to adults and licensed pursuant to Minn. Stat. §§ 245.78 to 245.812.

This rule contains the following:

1. A list of definitions;

2. The contents required in the program abuse and prevention plan; in the individual plan, and in the internal reporting and investigating policies and procedures;

3. The time frames for: developing the plan; orientation of clients to the plan; developing the individual abuse and neglect prevention plan for each vulnerable adult; review and revision of the individual plan; orientation for clients to the internal reporting system and orientation of reporters to requirements of Minn. Stat. § 626.557 and 12 MCAR § 2.010; and

4. The requirements for review and revision of the plan; for distribution of the plan; for the involvement of the client and/or

client representative in developing the plan; for the posting of policies and procedures relating to Rule 10; for conducting in-service training for mandated reports at least annually; and for establishing and maintaining a current list of persons who provide services in or to the facility who meet the definition of a mandated reporter.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. § 626.557.

The adoption of this rule will not require expenditure of public monies by local public bodies totaling or exceeding $100,000 in either of the two years immediately following adoption of the rule.

The programs required to meet the provisions of this rule will be developing their program abuse and neglect prevention plans within their existing administrative program staff. The individual abuse and neglect prevention plans will be developed by the existing interdisciplinary team as a part of the clients individual program plan.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Vivian Miller, Department of Public Welfare, Centennial Building, St. Paul, MN 55155, telephone (612) 296-2852. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule contact Vivian Miller.

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 notification 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.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, 1979 supp., as any individual:

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

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

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

April 22, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rule as Proposed (all new material)

12 MCAR § 2.010 Reporting maltreatment of vulnerable adults in licensed facilities.

A. Applicability. Rule 12 MCAR § 2.010 applies to residential and nonresidential programs providing services to adults and licensed pursuant to Minn. Stat. §§ 245.781-245.812.

B. Definitions. As used in 12 MCAR § 2.010, the following terms have the meanings given them.

1. Abuse. "Abuse" means:

a. Any act which constitutes a violation of Minn. Stat. § 609.322, related to prostitution;

b. Any act which constitutes a violation of Minn. Stat. §§ 609.342-609.345, related to criminal sexual conduct; or

c. The intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress.

2. Agency. "Agency" means any individual, organization, association, or corporation which regularly provides services to adults and is licensed by the Department of Public Welfare pursuant to Minn. Stat. §§ 245.781-245.812.

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

3. Client. "Client" means a vulnerable adult, as defined in 12.

4. Client representative. "Client representative" means any family member, legal guardian, or other interested person acting or speaking in place of a client or on behalf of a client.

5. Facility. "Facility" means a residential or nonresidential facility providing services to adults and licensed by the Department of Public Welfare pursuant to Minn. Stat. §§ 245.781-245.812.

6. Governing body. "Governing body" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a day care or residential facility or service or agency.

7. Interdisciplinary team. "Interdisciplinary team" means the individuals from the various disciplines which are required by Department of Public Welfare licensing rules to be involved in program and treatment planning. If only one person is designated by the rule under which the program is licensed to develop the individual program plan with the client, this person shall consult with members of other disciplines as required by that licensing rule to be involved in developing the individual program or treatment plan.

8. Investigative authority. "Investigative authority" means the local police department, county sheriff, local welfare agency, or appropriate licensing or certifying agency.

9. Mandated reporter. "Mandated reporter" means each employee of a program and each person providing client-related services in or to a program.

10. Neglect. "Neglect" means failure by a caretaker to supply or to ensure the supply of necessary food, clothing, shelter, health care, or supervision for a client.

11. Program. "Program" means a residential or nonresidential facility or an agency providing services to adults and licensed by the Department of Public Welfare pursuant to Minn. Stat. §§ 245.781-245.812.

12. Vulnerable adult. "Vulnerable adult" means any person 18 years of age or older who is a resident of a facility or who receives services at or from a program.

C. Program abuse and neglect prevention plan.

1. Requirement. The program's governing body shall establish and enforce a written abuse and neglect prevention plan. This plan shall be completed within 60 days of the effective date of this rule.

2. Plan contents. The plan must contain the following information:

a. An assessment of the population, the physical plant for each facility and for each site when living arrangements are provided by an agency, and its environment, identifying the factors which may encourage or permit abuse or neglect;

b. A description of the specific steps which will be or have been taken to minimize the risk of abuse or neglect identified in any of the assessed areas, including physical plant repairs and modifications responsive to problems in the program's environment where necessary; and

c. A timetable for the implementation of corrective actions that will be taken, such as training staff, initiating new procedures, or adjusting staffing patterns.

3. Assessment factors.

a. The assessment of the population shall include an evaluation of the following factors: the age, sex, mental functioning, physical and emotional health or behavior of clients; the need for specialized programs of care for clients, the need for training of staff to meet identified resident needs, and the existence of a documented history of abuse or neglect of clients.

b. The assessment of the physical plant, if required, shall include an evaluation of the following factors: the condition and design of the building as it relates to the safety of the clients and the existence of areas in the building which are difficult to supervise.

c. The assessment of the environment, if required, shall include an evaluation of the following factors: the location of the program in a particular neighborhood or community, the type of grounds surrounding the building, the type of internal programming, the program's staffing patterns, and the existence of a documented history of abuse or neglect by staff.

4. Plan review. The program's governing body shall review the plan at least annually using the assessment factors in the plan and any reports of abuse or neglect that have occurred. The governing body shall revise the plan so that it reflects the results of the review.

5. Plan orientation for clients. The program shall provide for its clients a general orientation to the program abuse and neglect prevention plan. Client representatives shall have the opportunity to be included in the orientation. The program shall provide this initial orientation within 60 days after the effective date of this rule, and, thereafter, for each new client within 24 hours of admission.

6. Plan distribution. The program shall post a copy of the plan in a prominent location in the facility and at each site when living arrangements are provided by an agency and have a copy available for review by clients, client representatives, and mandated reporters upon request.

D. Individual abuse and neglect prevention plan.

1. Requirement. The client's interdisciplinary team shall develop an individual abuse and neglect prevention plan, and this plan shall be implemented for each client. The team shall develop a plan for each current client within 60 days after the effective date of this rule and, thereafter, for each new client as part of the initial individual program plan, as required by the Department of Public Welfare rule under which the program is licensed.

2. Plan contents. The plan must be a part of the client's individual program plan and must include the following information:

a. An assessment of the client's susceptibility to abuse, including self-abuse and neglect;

b. A statement of the specific measures which will be taken to minimize the risk of abuse and neglect to the individual client when the individual assessment indicates the need for specific measures in addition to the general measures specified in the program abuse and neglect prevention plan; and

c. Documentation of results of the individual assessment when it does not indicate the need for specific measures in addition to the general measures specified in the program abuse and neglect prevention plan.

3. Plan review. The review and evaluation of the individual abuse and neglect prevention plan shall be done as part of the review of the client's individual program plan. The interdisciplinary team shall review the abuse and neglect prevention plans at least annually, utilizing the individual assessment and any reports of abuse or neglect relating to the client. The plan shall be revised to reflect the results of this review.

4. Client participation. Whenever possible, the client shall participate in the development of the individual abuse and neglect prevention plan. The client shall have the right to have a client representative participate with or for the client in the development of the plan. If the client or client representative does not participate, the reasons shall be documented by the team in the plan.

E. Internal reporting and investigation system and records.

1. Establishment. The program's governing body shall establish and enforce internal written reporting and investigating policies and procedures for abuse and neglect, including suspected or alleged abuse and neglect. The same policies and procedures shall apply in all cases, regardless of the results of the internal investigation.

2. Reporting. The policies and procedures must include a process for the mandatory reporting of abuse or neglect of vulnerable adults. The policies and procedures must specify how reports are to be made and provide for all reports to be made promptly when a mandated reporter has reasonable cause to believe that a client is being or has been abused or neglected, or has knowledge that a client has sustained a physical injury which is not reasonably explained by the client's history of injuries. The policies and procedures shall also contain a provision that persons other than mandated reporters may and should report incidents of abuse or neglect and shall identify the persons to whom internal reports should be made. The procedure shall specify that reports may be made directly to the outside investigative authorities or to the person designated by the program or both. The person responsible for forwarding internal reports to outside authorities shall be clearly identified. All mandated reporters shall be informed of their responsibility to ensure that their report reaches the appropriate outside investigative authorities. Reporters shall be informed when a report has been forwarded and to whom it has been forwarded. Reports shall include the following information:

a. The name and location of the client and the program;

b The nature of the abuse or neglect;

c. Pertinent dates and times;

d. Any history of abuse or neglect;

e. The name and address of the reporter;

f. The name and address of the alleged perpetrator; and

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g. Any other information that might be helpful in investigating the abuse or neglect.

3. Investigation. The policies and procedures shall include identification of the person responsible for the internal review and investigation of abuse or neglect. However, if the person responsible for the review and investigation is suspected of committing the abuse or allowing the neglect, another person shall be designated to conduct the review and investigation.

4. Records. The policies and procedures shall include a provision requiring that records are maintained regarding the internal review and investigation of cases of abuse and neglect. These records shall contain a summary of the findings, persons involved, persons interviewed, persons and investigating authorities notified, conclusions and any actions taken. The records shall be dated and authenticated by signature and identification of the person doing the review and investigation.

5. Communication. The policies and procedures shall include a provision requiring the communication of all knowledge and written information regarding incidents of abuse or neglect to the Department of Public Welfare.

6. Cooperation. The policies and procedures shall include a provision requiring the cooperation of the program with the department in the course of the investigation.

7. Orientation for clients. The program shall provide for its clients an orientation to the internal reporting system. Client representatives shall have the opportunity to be included in the orientation. The program shall provide this initial orientation within 60 days after the effective date of this rule and, thereafter, for each new client within 24 hours of admission.

8. Distribution of copies. The program shall post a copy of the internal reporting policies and procedures in a prominent location in the facility or at the offices of an agency and have it available upon request to mandated reporters, clients, and client representatives.

F. Personnel requirements.

1. Orientation of reporters. Within 60 days after the effective date of this rule, the program shall inform mandated reporters about the requirements of Minn. Stat. § 626.557, the provisions of 12 MCAR § 2.010, and all internal policies and procedures related to vulnerable adults. All staff shall be informed that individuals, other than those mandated to report, may report suspected cases of abuse or neglect to the appropriate investigative authorities and that staff must provide information to those requesting it regarding the procedure for contacting the authorities. Thereafter, the program shall provide this orientation for new mandated reporters no later than during the first shift worked.

2. Training. The program shall conduct in-service training at least annually for mandated reporters to review Minn. Stat. § 626.557, the provisions of 12 MCAR § 2.010, and all internal policies and procedures related to vulnerable adults.

3. List of persons providing services. The program shall establish and maintain a current list of persons who provide services in or to the program who meet the definition of a mandated reporter.

Waste Management Board

Proposed Rules Governing Supplementary Review

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subd. 4(h) (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes §.15.0412, subds. 4-4(f).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Waste Management Board
Attention: Sharon Decker
123 Thorson Building
7323-58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

minnesota department of health
717 s.e. delaware st. minneapolis 55440

January 21, 1981

Dear Administrator/Person in Charge:

As you know, the 1980 Session of the State Legislature passed Minnesota Statutes § 626.557 on Reporting of Maltreatment of Vulnerable Adults. This law which became effective on January 1, 1981, is intended to protect adults who are dependent upon others for their care and to assist persons supplying the services in providing a safe environment for these adults.

Enclosed is a copy of the law. A review of the provisions of this law will assist you in identifying your responsibilities in fulfilling the requirements of the law, e.g. the reporting mechanism mandated under Subdivision 3 and 4, establishment of a facility abuse prevention plan and an individual resident abuse prevention plan under Subdivision 14, etc.

In reviewing the provisions of this legislation you will note that the primary jurisdiction for the implementation of this law lies with the Department of Public Welfare. Staff of that Department has informed me that they are developing rules clarifying county agency responsibilities. They are also intending to establish a task force to review the law's provisions, discuss the implementation of the law and suggest procedures to assist in facilitating coordination between the various agencies in their enforcement of the law.

You will note under Subdivision 16(b) that licensing agencies are required to promulgate whatever rules are necessary to implement the provisions of this law. This Department is reviewing their responsibilities under the law in preparation for rule development; however, to assure coordinated efforts with other agencies it is this Department's intent to promulgate rules subsequent to the discussions arising out of the task force. This should not, however, delay a facility's activity in addressing their responsibilities since the specificity of the law provides you with enough detail to develop policies and procedures for implementing the law. The language of this law is specific enough in most areas to identify the facility responsibilities. This Department will be monitoring each facility to ascertain compliance with the intent of the law. Non-compliance will necessitate issuance of a correction order and/or initiation of any other action in accordance with Subdivision 11.

an equal opportunity employer

You will note in Subdivision 14(a) the requirement that a facility establish and enforce an ongoing written abuse prevention plan. Many of you already have such a mechanism and may need only to revise an existing plan to incorporate the factors listed in this subdivision, i.e. physical plant assessment, environmental factors, population factors which may contribute to abuse situations and a statement specifying measures to be taken to minimize the risk of abuse. You may find it helpful to establish a committee to formulate a reporting system both for internal reporting and for reporting to appropriate agencies, to develop preventive measures to minimize the risk of abuse, to review cases of potential abuse or charges of neglect; for policy and procedure revisions, etc. Note also in Subdivision 14(b) each facility is responsible for developing an individual abuse prevention plan which will identify the vulnerability of each adult and a plan of care for the adult. Some questions have been raised regarding this provision. Many of you have already addressed such issues in your current patient/resident care plan. I would suggest, therefore, that you evaluate your existing plans for compliance with the provisions of this portion of the law and revise and/or expand upon them as you identify the need.

Hopefully, a concern such as avoidance of duplication of visits, and more clarification of terms such as "neglect" will be addressed in the task force discussions. In the interim, please feel free to contact this Department at (612) 296-5420 for any questions or to relay any suggestions you desire be taken to the task force meetings.

Any questions or comments regarding the overall implementation of this law should be directed to Mr. Arthur Jauss, Adult Services Coordinator, Department of Public Welfare, at (612) 296-3730.

Sincerely yours,

Clarice Seufert, Chief
Survey and Compliance Section
Health Systems Division

CS:ac
Attachment

JUSTIFICATION

For a proposed rule relating to a schedule of fines for non-compliance with correction orders issued to nursing homes and boarding care homes.

INTRODUCTION

Minnesota statutes, section 144.653, subdivision 5 (1974) states:

> Whenever a duly authorized representative of the State Board of Health finds upon inspection of a facility required to be licensed under the provisions of sections 144.50 to 144.58 that the licensee of such facility is not in compliance with an applicable regulation . . ., a correction order shall be issued to the licensee . . . .

Subdivision 6 of that statute allows the Board of Health to assess a penalty if, upon reinspection, it is found that the licensee has not yet complied with a correction order.

This law was amended by Minnesota Laws 1975, chapter 310, section 7. That section increased the amount of the penalty assessment, from the previous limit of $250, to $1000. However, this amendment also required that the Board promulgate, by rule and regulation, a schedule of fines applicable for each type of deficiency. This amendment, which became effective of June 5, 1975, had the affect of ending the Board's authority to issue penalty assessments until a schedule of fines was promulgated in accordance with the Administrative Procedure Act.

At its August, 1974 meeting, the Board adopted a policy establishing two levels of assessments, one at $50 and the other at $250. Three criteria were developed to select the sections of the regulations requiring the $50 penalty assessment. Two additional criteria were adopted by the Board at its June, 1975 meeting. The five criteria will be outlined later.

The proposed schedule of fines is based on the Board policy of August, 1974 as amended in June, 1975. While the Board now has the authority to establish fines of up to $1,000, the importance of re-implementing the penalty assessment system was a decisive factor in reaching the decision to use the Board policy as a temporary schedule of fines. The time factor involved in establishing a schedule using the $1,000 limit would have prevented use of the penalty assessment system for a greater length of time. The importance of adopting this regulation as soon as possible to

assure that the Department could effectively enforce its regulations was considered essential. The Board policy was felt to be a reasonable basis for establishing this regulation. In addition, a revision of the nursing homes regulations has begun and it was felt that once the existing regulations were reviewed and revised, it would be more appropriate to establish a new fee schedule based on the new regulations.

The various sections of the nursing home and boarding care home regulations have been classified into five categories. These are:

1. Regulations relating to the health and safety of patients and residents;
2. Regulations relating to the medical treatment of patients and residents;
3. Regulations relating to the comfort of patients and residents;
4. Regulations relating to the personal well-being of patients and residents; and
5. Regulations relating to the operation and maintenance of a nursing home or boarding care home.

The regulations which are classified under the heading of health and safety relate to those conditions in the home which are necessary in order to assure patient health and safety. Items such as sanitation, dietary facilities, etc. are listed in this category. The health and safety category differs from the regulations under the medical treatment category in that the latter group is concerned with individual needs rather than general needs of all patients and residents in a facility. The medical treatment category includes the provisions in the regulations relating to proper charting, proper administration of medications, etc.

The comfort and well-being categories are also similar in nature. The difference between the two groups is that the comfort category deals primarily with the physical aspects, such as clean linen and adequate furnishings. The items listed under the well-being category relate to the mental and emotional concerns of a patient or resident.

The fifth category contains regulations of a general nature dealing primarily with those items that must be met to assure the proper administration of a facility.

The criteria used to determine which sections of the nursing home and boarding care home regulations would be subject to the $50 penalty assessment are:

1. The requirements in these regulations do not directly relate to the provision of patient care;
2. Noncompliance with any one of these regulations would not present a hazard to patient health and safety;

3. The requirements, if not in full compliance, will not substantially affect the capability of the facility to provide an overall high quality of care to patients and/or residents;
4. Noncompliance with any one of these regulations would not jeopardize the patient's or resident's property, personal rights, or dignity; and
5. The requirements in these regulations do not relate to the financial stability of the operation or management of the facility.

It should be noted that the regulations which meet these criteria and are thus assessed at the lower level are not to be considered as non-essential or unimportant. The assessments were reduced on the basis that these regulations do not directly relate to the welfare of the patient or resident. Regulations not meeting these criteria will be assessed at a level of $250.

It is important to also realize that the contents of the regulations are not being justified at this time. The regulations listed below have been properly adopted and thus have the force and effect of law. The purpose of this document is to justify only the amount of the assessment.

7 MCAR § 1.057 Schedule of Fines for Uncorrected Deficiencies.

I General

This rule establishes the amount of a fine that will be assessed to a nursing home or a boarding care home for non-compliance with correction orders. Section A. and Section B. are existing rules while Section C. is a new schedule of fines that is based on the rules presented at the April 1, 1980 public hearing. The only change made in Section A. is the re-numbering to be in accordance with the requirements for the Minnesota Code of Agency Rules. Section B, in addition to being re-numbered, contains the appropriate reference to the provisions of Section C. The statutory authority for promulgating Section C. is contained in Minnesota Statutes § 144A.10 subd. 6 (1978) which provides that: "a nursing home. . . shall be assessed a civil fine in accordance with a schedule of fines promulgated by rule of the Commissioner of Health. A fine shall be assessed for each day the facility remains in noncompliance and until a notice of correction is received by the Commissioner of Health. . . ." Thus, it should be noted that the provisions of Section C. will, first, apply only to facilities licensed as a nursing home and, second, will provide for the daily accrual of fines in accordance with the provisions of Minn. Stat. § 144A.10 subd. 6 and subd. 7. (1978) It should also be emphasized that the new schedule of fines will only apply to the new rules and that the existing schedule of fines contained in Sections A. and B. will still be applicable to nursing homes and to boarding care homes in accordance with the provisions of Minn. Stat. § 144.653 and the continuity provisions of Minn. Stat. 144A.29 (1978). The provisions of Section C. will only apply to those rules specifically enumerated within that section.

The schedule of fines contained in Section C. provides for three levels of assessments in the amount of $50, $150 and $250. The Department has the authority to assess fines up to $250 per day (Minn. Stat. 144A.10, subd. 6.) While it

would be possible to develop a greater number of fine levels, the Department feels that the establishment of three levels provides a workable and equitable mechanism. The three levels were based on the degree of harm that would result if the nursing home fails to comply with the provisions of the rule. A $50 penalty assessment will be issued for a violation of these rules which have only a minimal relationship to the health, safety, treatment, comfort or well-being of a patient in the nursing home. A violation of these rules would not create a situation which would jeopardize the health or safety of a patient. A $150 penalty assessment will be issued for a violation of those rules which could potentially create a situation jeopardizing the health, safety, treatment, comfort or well-being of the patient. A $250 penalty assessment will be issued for a violation of these rules which would create a situation jeopardizing the health, safety, treatment, comfort or well-being of the patients.

The Department believes that the three levels provide a rational basis for issuance of penalty assessments based on a degree of harm that a violation of the rule would present to the patients in a nursing home. It should be emphasized that the Department cannot issue a fine to a nursing home until after the issuance of a correction order and until the expiration of the specified period of time for correction has elasped. Thus, prior to being in a situation which would result in the issuance of a fine, the nursing home is fully informed as to the nature of the deficiencies and provided a period of time in which to make the necessary corrections. It is only in those situations where the facility has failed to comply with the correction order and upon reinspection the Department determines that the facility is still in non-compliance with the licensing rule that the fine will be assessed.

7 MCAR Section 1.058 Allowable Time Periods For Correction

I General Comments

This proposed rule, which designates specific time periods for the nursing home to come into compliance with a correction order, is a new rule. The development of this rule is mandated by the provisions of Minnesota Statutes, 144A.10, subdivision 4. That statute specifies in part that "...the Commissioner of Health by rule shall establish a schedule of allowable time periods for correction of nursing home deficiencies." Thus, the necessity for the development of this proposed rule is clearly and specifically stated in the licensing statutes. It should be noted, that the proposed schedule of allowable time periods for correction only applies, at this time, to the specific rules that are subject to the April 1, 1980 hearing. The remaining nursing home rules will be given specific allowable time periods for correction at the time those rules are amended. It should also be noted that the provisions of Minnesota Statutes, § 144A.10, apply only to those facilities which are licensed as nursing homes. Thus, the provisions of this rule would not apply to facilities presently licensed as boarding care homes since those facilities are licensed and regulated under the provisions of Minnesota Statutes § 144A.50-122.56, and 144.653(1978).

There are two general sections to the provisions of 7 MCAR § 1.058. The first section, Section A, enumerates the specific time periods that will be allowed for correction of a nursing home deficiency. Section B, on the other hand, provides a mechanism by which the administrator of a nursing home can request an extension of a period of time for correction. This later section is necessary in order to provide the administrator with a mechanism to request an extension of time in situations where he can demonstrate that it was not possible to attain compliance

with the correction order in the period stated in the rules. A further analysis of the extension provisions will be discussed in detail, below.

The allowable time periods for correction were limited to three specific time categories, 14 days, 30 days, and 60 days. The reason for limiting the allowable periods of correction to these three categories was to establish a relatively uniform framework upon which the specific rules could be classified. The three categories also represent a reasonable attempt to provide sufficient time to the administrators of a facility to obtain compliance and when the provisions for extension of times are considered, the established time periods are not unreasonable.

The 14 day allowable time period for correction is used for those rules which can be easily corrected by a facility utilizing the internal resources of the nursing home. Thus, for those orders which can be corrected by the development of internal policies, or by utilizing the resources of the existing nursing home staff, the Department feels that a 14 day period to obtain compliance with the correction order is reasonable. In situations where the administrator can demonstrate to the Department that the period of time is not sufficient, the administrator would be allowed to request an extension of the specific time period for correction. It should also be pointed out, that the allowable time period for correction does not commence until the facility has received a copy of the correction order. The provisions of Minn. Stat. 144A.10 subd. 3, require that the correction orders be mailed to the facility by certified mail. Thus, the time period for correction will not commence to run until the facility receives the correction orders. However, the administrator and staff of the nursing home, even prior to the actual receipt of the written correction orders, have been informed of the Department's findings that were made during a survey. The Department is required to hold an

exit interview with the administrator and other facility staff to discuss the findings made during the survey of the facility and, at that time, the administrators are informed of the areas that will more than likely result in the issuance of a correction order. Thus, the administrators are given advance notice of the deficiencies found in the facility and steps to attain compliance with those correction orders should commence at that time.

The thirty day allowable time period for correction is utilized for those rules that, while possibly capable of being corrected through the utilization of nursing home resources, would usually require some contacts with individuals outside of the facility. In those situations where an order allows a thirty day period for correction, the facility has additional time to make the necessary internal arrangements as well as to contact people outside of the facility to assure that compliance is indeed attained within this period of time. The Department feels that the thirty day time period for these rules is reasonable and will provide the administrator of the facility sufficient time to make the necessary arrangements. Then, if the administrator can demonstrate that he has indeed actually been seeking to attain compliance and has run out of time, an extension may be granted under the requirements of the rule.

The third category of time, the sixty day time limit, is reserved for those specific rules where outside resources would generally have to be contacted since the nursing home would not be expected to have internal resources to attain compliance. This section is generally used for those requirements which specify the purchasing of equipment or the obtaining of contracts to perform work on the physical plant structure of the facility. The sixty day time period would allow time for the administrator to obtain bids, to enter into contracts and, if necessary, also to

contact or seek the approval of the facility's board of directors for any sort of major repairs. Again, the Department feels that the sixty day time period would provide a reasonable amount of time to the administrator to make the necessary contacts and arrangements to obtain either the equipment or to make the arrangements for outside individuals to come in and to complete the work in the facility. Again, the administrator could request an extension of time if compliance could not be attained within sixty days.

It should be emphasized that the administrators of nursing homes are aware of the requirements that are contained in the existing licensing rules. Since the administrators have notice of the requirements that are expected of them, the ability of the administrator to operate the facility in compliance with these minimum standards at all times is to be considered the standard by which their operation is to be measured. However, the Department does indeed realize that it cannot be expected that the facility is continually operated in total compliance with the rules. However, the Department feels that when noncompliance with the rules is demonstrated by Department surveyors, it is incumbent upon the nursing home to immediately take the steps that will bring that facility into compliance with the provisions of the licensing rules. The 14 day, 30 day and 60 day time periods should allow sufficient time for the administrator to take the necessary steps to attain compliance and when coupled with the requirement that the facilities are expected to be operated at the minimum level at all times, these time periods do not put an undue burden upon the administrator of the facility. However, by developing a mechanism to request an extension of time based upon the examination of the efforts of the administrator, the Department has also recognized situations where compliance may not be attained within the period of time and has allowed the administrator to request extensions for good cause.

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

77 DEC 30 PM 3:39

COURT ADMINISTRATOR

White Park Nursing Home,

Petitioner,

vs.

Minnesota State Board of Health,

Respondent.

HC File No. 731,359

ORDER AND MEMORANDUM

The above entitled matter came on for hearing before the Honorable Jonathan Lebedoff, one of the Judges of the above named Court, on August 26, 1977, pursuant to an Order of the Hennepin County District Court Administration for hearing during the week of August 22, 1977.

Kathryn E. Baerwald appeared on behalf of the petitioner; John A. Breviu appeared on behalf of the respondent.

The Court continued the matter for oral argument on November 15, 1977, with John M. Brooker appearing on behalf of petitioner and Mr. Breviu again appearing on behalf of respondent.

The Court having heard the arguments of counsel and upon all the files and records herein,

IT IS HEREBY ORDERED:

1. That petitioner's motion is granted and that Dr. Warren Lawson, Commissioner of Health, and the Minnesota Department of Health be substituted as respondents in this action.

2. That petitioner's motion for an order reversing the order of the Minnesota State Board of Health or, in the alternative, reducing the amount of the assessment to $50.00 is continued for the purpose of allowing the parties to brief the constitutional questions raised by said motion, as is more fully set out in the attached Memorandum.

3. [illegible] Memorandum be made a part of [illegible].

BY THE COURT:

Jonathan Lebedoff

DEC 30 1977

MEMORANDUM

Pursuant to Minn. Stat. § 15.0424 (1976), the petitioner Waite Park Nursing Home has appealed from a decision by respondents Dr. Warren Lawson, Commissioner of Health, and the Minnesota Department of Health in an administrative contested case proceeding. The petitioner has presented two major issues for the Court's consideration regarding the decision of the respondents: (1) whether the decision of respondents upholding the assessment against the petitioner for violation of respondents' correction order was supported by substantial evidence, or (2) if the first issue is answered affirmatively, whether respondents' decision to impose a $250.00 fine is an error of law.

In discussing the first issue raised by the petitioner, the Court must determine whether the decision below upholding the assessment against the petitioner was supported by substantial evidence. Since the Court's scope of review of the facts in this case is a relatively narrow one, the Court is compelled to accept the decision of the respondents if there is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Minneapolis Van and Warehouse Company v. St. Paul Terminal Warehouse Company, 288 Minn. 294, 180 NW2d 175, 178 (1970). This Court cannot, within its narrow scope of review, substitute its judgment for that of the respondents when their decision is supported by substantial evidence.

The Court is satisfied from its review of the facts that the substantial weight of the evidence supports the respondents' finding that the petitioner did not substantially comply with the respondents' correction order requiring the recordation of monthly weights. Since the evidence supports the finding that petitioner did not substantially comply, it is not necessary for this Court to reach the issue posed by the petitioner as to whether a finding of substantial compliance would warrant dismissal of the assessment. Furthermore, the Court does not

believe that petitioner's claim of its good faith attempt to comply is a viable defense in the absence of a finding of substantial compliance.

Relative to the issue of whether there was substantial evidence to support a finding that there was a violation of the correction order, the petitioner claims that it was entitled to present oral arguments disputing the finding of a violation by the hearing examiner before the board of health. The Court finds no merit to this contention. The petitioner had a full opportunity to present evidence and cross-examine the board's witnesses at the hearing. Moreover, the petitioner had the opportunity to present oral and written arguments to the hearing examiner, as well as written argument before the board. The petitioner has cited no authority for the proposition that it is entitled to oral argument before the board after it already has had the opportunity to fully present its position in written form before the board and in both written and oral form before the hearing examiner.

Nor is there any merit to the petitioner's claim that MHD 48 (b) was unreasonable per se or unreasonable as it was applied to the petitioner. The Court believes that the rule requiring the recordation of nursing home patients' weights is reasonable on its face. Furthermore, the Court does not believe that the order was unreasonably applied in this case, where there was sufficient evidence to support the finding that petitioner had not substantially complied with the requirements of that order.

The second, and more difficult, major issue is whether the respondents' decision to impose a $250.00 fine is an error of law. The narrow question presented by the petitioner before this Court is whether the respondents correctly interpreted and applied the rules and law with respect to the fine. Minn. Stat. § 144.653, subd. 6 (Supp. 1975) provides in relevant part that "[t]he board of health shall promulgate by rule and regulation a schedule of fines applicable for each type of uncorrected deficiency." Pursuant to this statute, the board of health promulgated a schedule of fines which is set out in MHD 57. The pertinent fine in this case, MHD 57 (b), states:

> (b) A $250 penalty assessment will be issued under the provisions of Minn. Stat. § 144.653, subd. 6 (1974) for noncompliance with correction orders relating to [MHD 48 (b)].

The Court accepts the argument of the respondents that according to the literal wording of this rule the hearing examiner and the respondents do not have discretion in assessing the amount of the fine. Minn. Stat. § 144.653, subd. 8, requires that the hearing examiner impose a penalty "as determined by the board in accordance with subdivision 6 (of § 144.653)." Therefore, the hearing examiner must impose a fine which is consistent with the board of health's schedule of fines referred to in § 144.653, subd. 6. Since the applicable fine, MHD 57(b), is mandatory, the hearing examiner does not have discretionary authority to modify the fine as designated in the board's schedule of fines. According to this interpretation of the rule, it follows that any modification of the designated fine would have been beyond the scope of the hearing examiner's authority.

Even assuming arguendo that the hearing examiner could modify the fine, the Court believes that Minn. Stat. § 144.653, subd. 8 does not bestow final decision making power upon the hearing examiner with regard to the assessment of a fine. Minn. Stat. § 144.653, subd. 8, states in relevant part:

> Upon determining that the license of a facility required to be licensed under sections 144.50 to 144.58 has not corrected the deficiency specified in the correction order, the hearing officer shall impose a penalty as determined by the board in accordance with subdivision 6. The hearing and review thereof shall be in accordance with the relevant provisions of the administrative procedures act.

(Emphasis added.)

The relevant provision of the Administrative Procedure Act that controls in the instant case is Minn. Stat. § 15.052, subd. 3 (Supp. 1975). That section of the APA provides that the hearing examiner's duties include the making of a report "stating his findings of fact and his conclusions and recommendations." Therefore, except in the few cases noted

by the respondents, the agency, not the hearing examiner, has the authority to render a final decision of the matter based in part upon the hearing examiner's findings, conclusions and recommendations. Minn. Stat. § 15.0421 (Supp. 1975). Moreover, it is the agency which is vested with the power to interpret its own regulations and guidelines. Jet Services, Inc. v. Hoffman, 420 F. Supp. 1300 (M.D. Fla. 1976); Vonasek v. Hirsch and Stevens, Inc., 65 Wis.2d 1, 221 NW2d 815 (1974). Thus, if the hearing examiner misinterprets a rule or regulation of the agency, the agency has the authority to render its decision consistent with its own interpretation of a particular rule.

However, accepting the respondents' interpretation of the law as compelling a non-discretionary fine, the Court cannot help but question whether the application of the rule requiring a set fine is violative of the constitutional principles of due process. While the petitioner did not directly attack the constitutional validity of MHD 57(b), the petitioner, by reference to Riverview Nursing Home v. Minnesota State Board of Health, Hennepin County District Court File No. 711,145 (January 23, 1976) and Cedar Pines Nursing Home v. Minnesota State Board of Health, Hennepin County District Court File No. 719,108 (November 18, 1977), does raise the question as to whether constitutional principles of due process require that substantial compliance and the good faith efforts of a facility to comply with a correction order be taken into account in the determination of a fine. The Court appreciates the fact that the Riverview and Cedar Pines cases involve a statute which is worded differently from the applicable rule in this case. However, the fact that the instant rule contains non-discretionary language does not excuse this Court from its obligation to examine the rule in light of constitutional principles of due process. It is significant that the decisions in Riverview and Cedar Pines went beyond just merely interpreting the applicable statute in those cases,

but were based in part upon what was believed to be constitutionally required by due process. In both cases, the Court held that good faith intent to comply and substantial compliance with the correction order were to be considered in assessing the fine to be imposed.

If the petitioner contends that constitutional principles of due process require the consideration of good faith and substantial compliance in assessing a fine, the constitutional validity of MHD 57(b) is necessarily drawn into question. Since this issue was not directly addressed by either of the parties, but only indirectly by the petitioner, the Court will grant leave to the parties to submit further memoranda regarding this crucial issue.

The parties may have until Wednesday, December 28, 1977, to submit to the Court memorandums on the constitutional question. The Court will be free at any time after that date for further appearances consistent with any of the issues in this case.

J.G.L.

FILED
'77 NOV 30 PM 3:35
BY HENRY J. LEBEDZ
COURT ADMINISTRATOR

APPENDIX G-2

STATE OF MINNESOTA — DISTRICT COURT

COUNTY OF HENNEPIN — FOURTH JUDICIAL DISTRICT

JAN 31 PM 2:03

RECEIVED
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Legal Office
Minn. Dept. of Health

Waite Park Nursing Home, Petitioner,	File No. 731,359
-vs-	ORDER AND MEMORANDUM
Minnesota Department of Health and Dr. Warren Lawson, Commissioner of Health, Respondents.	

The above-entitled matter came on for hearing before the Honorable Jonathan Lebedoff, one of the Judges of the above-named Court, on August 26, 1977, pursuant to an Order of the Hennepin County District Court Administration for hearing during the week of August 22, 1977.

Kathryn E. Baerwald appeared on behalf of the Petitioner; John A. Breviu appeared on behalf of the Respondent.

The Court continued the matter for oral argument on November 15, 1977, with John M. Broeker appearing on behalf of Petitioner and Mr. Breviu again appearing on behalf of Respondent.

The Court having heard the arguments of counsel and upon all the files and records herein,

IT IS HEREBY ORDERED:

1. That Petitioner's motion for an order reversing the order of the Minnesota Department of Health and Dr. Warren Lawson, Commissioner of Health or, in the alternative, reducing the amount of the assessment to $50.00 is in all things denied.

2. Let the attached Memorandum be made a part of this Order.

BY THE COURT:

Jonathan Lebedoff
Judge of District Court

Dated: January 31, 1978

MEMORANDUM

The present case involves an appeal brought by Petitioner Waite Park Nursing Home from an administrative decision by the Respondents, the Minnesota Department of Health and Dr. Warren Lawson. The facts surrounding the instant matter have been more fully discussed in this Court's Order and Memorandum of November 30, 1977. As part of the Court's Order and Memorandum of November 30, 1977, this Court found that the respondents' conclusion that the petitioner had not substantially complied with a Department of Health correction order relating to Minn. Rule MHD 48(b) was supported by substantial evidence in the record. However, at that time, the Court reserved ruling on petitioner's request for an order reversing the decision of the respondents, or in the alternative, reducing the assessed fine of $250.00 to $50.00 until the parties had submitted briefs regarding the constitutionality of Minn. Rule MHD 57(b).

Minn. Rule MHD 57(b) is one portion of a schedule of fines promulgated under Minn. Stat. § 144.653, subd. 8 (Supp. 1975). The rule states:

> (b) A $250 penalty assessment will be issued under the provisions of Minn. Stat. § 144.653, subd. 6 (1974) for noncompliance with correction orders relating to [MHD 48(b)].

(Emphasis added.)

In accepting the respondents' position that the rule requires a mandatory fine of $250.00 to be assessed for each violation, this Court was concerned whether the constitutional principles of due process required the consideration of good faith and substantial compliance in assessing the fine. Since the constitutionality of a mandatory assessment amount was only indirectly raised by the petitioner, the Court granted leave to the parties to brief this issue.

In reviewing the briefs that were submitted by the parties relevant to this issue, the Court is persuaded that Minn. Rule 57(b), as part of a mandatory schedule of fines promulgated under statutory authority, is constitutional. As was pointed out by the respondents, the petitioner bore a heavy burden in

overcoming the presumption that a law is valid. As was stated by the Minnesota Supreme Court in Dimke v. Finke, 209 Minn. 29, 32, 295 N.W. 75, 78 (1940):

> Every law is presumed to be constitutional in the first instance. An act will not be declared unconstitutional unless its invalidity appears clearly or unless it is shown beyond a reasonable doubt that it violates some constitutional provision. The power of the court to declare a law unconstitutional is to be exercised only when absolutely necessary in the particular case and then with great caution.

Likewise, in State v Carlson, 291 Minn. 368, 375, 192 N.W.2d 421, 426 (1971), the Minnesota Supreme Court stated:

> A law is not to be declared unconstitutional by the courts unless palpably so. The power of the court in this regard is to be exercised only when absolutely necessary, and then with extreme caution. Unless a law is unconstitutional beyond a reasonable doubt, it must be sustained.

It is the opinion of the Court that the petitioner has not met its heavy burden of proof in showing that the predetermined schedule of administrative penalties is constitutionally invalid. Rather, the Court is persuaded that the assessment of a predetermined fine is a constitutionally permissible exercise of the State's police power in promoting public health objectives. It is significant that the implementation of mandatory predetermined civil and criminal fines has been consistently unheld by the courts. Helvering v. Mitchell, 303 U.S. 391, 400 (1938); Lloyd Sabaudo Societa Anonima v. Elting, 287 U.S. 329 (1932); People of the City of Pontiac v. Courts, ____ Mich ____, 257 N.W.2d 101 (1977); Multi-Line Insurance Rating Bureau v. Commissioner of Insurance, 357 Mass. 19, 225 N.E.2d 787 (1970); People v Spence, 367 A.2d 983 (Del. 1976); People v Hall, 396 Mich 650, 242 N.W.2d 377 (1976); State v. Fearick, 69 N.J. 32, 350 A.2d 277 (1976); State v. Walker, 307 Minn. 105, 235 N.W.2d 810 (1975). Moreover, as was observed by the respondents, the Minnesota Supreme Court on at least one occasion has indicated a preference for mandatory predetermined administrative penalties in order to maintain uniformity and avoid discrimination. State v. Duluth, M & N Ry. Co., 207 Minn. 630, 292 N.W. 409 (1939).

Since this Court has already found that substantial evidence in the record supports the finding that the petitioner had violated a Department of Health correction order, we cannot help but

conclude that the Department of Health was correct in its imposition of the mandatory predetermined fine of $250.00 as provided in Minn. Rule MHD 57(b). Under the present schedule of fines, once there has been a finding of a lack of substantial compliance with the requirements of a correction order, the Department of Health has no discretion in determining the amount of the assessment, but is bound to follow and impose the predetermined assessment provided for in Minn. Rule MHD 57.

For the above reasons and the reasons stated in the Court's Order and Memorandum of November 30, 1977, the petitioner's request for an order reversing the decision of the Minnesota Department of Health, or in the alternative, reducing the amount of the assessment, should be denied.

FILED

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HENN. CO. DISTRICT COURT ADMINISTRATOR

BY DEPUTY

APPENDIX G-3

STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Viewcrest Nursing Home,
District Court File No. 758150,

Midway Manor Nursing Home,
District Court File No. 758151,

Viewcrest Nursing Home,
District Court File No. 758325,

Midway Manor Nursing Home,
District Court File No. 758707,

Viewcrest Nursing Home,
District Court File No. 759730,

Park Point Manor Nursing Home,
District Court File No. 760216,

Park Point Manor Nursing Home,
District Court File No. 761979,

St. Paul's Church Home,
District Court File No. 771970,

Pelican Lake Nursing Home,
District Court File No. 771505,

Petitioners,

vs.

Commissioner of Health of
the State of Minnesota,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came before the undersigned, Acting Judge of District Court, pursuant to the petitions of the above-referenced petitioners for review of various orders made by respondent Minnesota Commissioner of Health (hereinafter "Commissioner"). These petitions were consolidated into this action by order of Eugene Minenko, Chief Judge of the District Court.

Petitioners were represented by the firm of Broeker, Hartfeldt, Hedges & Grant through Barbara J. Blumer and Steve M. Mihalchick. The Commissioner was represented by Attorney General Warren Spannaus, through John A. Breviu and William G. Miller, Special Assistant Attorneys General.

Upon all the files, records, proceedings, the briefs and arguments of counsel, and having been fully advised in the premises, the Court hereby makes the following:

FINDINGS OF FACT

I.

All petitioners herein are nursing homes duly licensed by the Commissioner.

II.

Pursuant to Minn. Stat. §144.653 et seq. (1978) and Minn. Stat. §144A.01 et seq. (1978), the Commissioner has promulgated and does enforce a code of rules which set the standards under which nursing homes are required to operate. Minn. Rules MHD 44-67 (7 MCAR §§ 1.044-1.067).

III.

The Minnesota Office of Health Facility Complaints has been duly authorized to serve as agent of the Commissioner in the issuance of correction orders and assessments to health care facilities and was so authorized at all times relevant to this action.

IV.

This matter is before the Court as a consolidation of nine separate petitions for judicial review of the issuance of penalty assessments by the Commissioner to each petitioner for violation of various rules governing the operation of nursing homes.

V.

Upon the initial determination by a representative of the Commissioner that each petitioner had violated one or more of the above-referenced rules, a correction order or orders were issued to each petitioner informing it of the deficiencies present and the provisions of the rule which were violated, providing suggested methods of correction, and setting time periods for the correction of the violation.

VI.

Each petitioner was reinspected following the expiration of the time period given for compliance with the correction order.

VII.

At the reinspection, each petitioner was found by the inspectors to remain in violation of the correction orders at issue.

VIII.

A notice of assessment was sent to each facility based upon each continued violation. The amount of the assessment was set as provided by Minn. Rule MHD 57.

IX.

Each petitioner availed itself of the opportunity to contest the issuance of the assessments at an administrative hearing before an independent examiner, pursuant to the Minnesota Administrative Procedure Act, Minn. Stat. §§15.041-15.43.

X.

The recommendation of the hearing examiner, together with the entire record in each of the cases at issue herein, was presented to the Commissioner for final action. Upon review of the record in each of the cases at issue herein, the Commissioner upheld the issuance of the assessments and ordered payment.

XI.

All factual findings made by the Commissioner as a part of the record of the consolidated matter herein are supported by substantial evidence.

CONCLUSIONS OF LAW

1.

All petitioners herein are properly before this Court.

2.

Minn. Stat. §§144.653 and 144A.10, subd. 6 (1978), when read in conjunction with the entire statutory scheme for

the regulation of nursing homes, provide sufficient standards to control the discretion of the Commissioner of Health, and the delegation of rulemaking authority contained therein is in all respects constitutional.

3.

Minn. Stat. §§144.653 and 144A.10 properly delegate to the Commissioner the authority to set by rule the schedule of fines found in Minn. Rule MHD 57.

4.

The Office of Health Facility Complaints has the authority to issue assessments to nursing homes under the authority of Minn. Stat. §§144A.10 (1978).

5.

The Office of Health Facility Complaints has the authority to issue assessments to nursing homes as a duly authorized agent of the Commissioner of Health.

6.

The schedule of fines contained in Minn. Rule MHD 57 was effective during all times relevant to this action by virtue of the continuity provision of Minn. Stat. §144A.29, subd. 1 (1978).

7.

Minn. Stat. §144A.10, subd. 5 (1978) does not set a time limit during which reinspection must occur, but rather provides that no assessment shall be based upon a reinspection made before the expiration of the time period set for correction of the violation or given in the correction order.

8.

All reinspections herein were made within a reasonable time from the expiration of the time period for correction set forth in each correction order.

9.

The facts found by the Commissioner, and not challenged by petitioner Midway Manor, establish violation

by Midway Manor of the provisions of Minn. Rules MHD 54 (a) (1), 54(a)(3), 54(a)(2), 56(3) and 67(a)(1)(ff).

10.

The facts found by the Commissioner, and not challenged by petitioner Viewcrest Nursing Home, establish violation by Viewcrest of the provisions of Minn. Rules MHD 55(h) and 55(3).

11.

The issues of "substantial compliance," "good faith efforts to comply" and the validity of a basically uniform schedule of fines, although raised by petitioners in their Petitions for Judicial Review, were neither briefed nor argued by petitioners and are not properly before this Court.

ORDER

IT IS HEREBY ORDERED that the Orders, Assessments, Findings of Fact and Conclusions of Law made by the Minnesota Commissioner of Health relative to the above-entitled consolidated matter are in all respects affirmed.

BY THE COURT:

Roberta K. Levy
Acting Judge of District Court

Dated this 9 day of January, 1981.

MEMORANDUM

The above-consolidated matters involve the petitions of nine nursing homes for judicial review of decisions rendered by the Minnesota Commissioner of Health (hereinafter "Commissioner"). In each of the cases under consideration, a contested hearing was held and the Commissioner imposed penalty assessments for violation of rules governing the operation of nursing homes. The Court granted petitioners' motion to amend their petitions to raise the unconstitutionality of certain provisions of the applicable statute on improper delegation grounds at the hearing of this cause.

Minn. Stat. §15.0425 (1978) sets forth the scope of judicial review of administrative decisions:

> 15.0425 SCOPE OF JUDICIAL REVIEW. In any proceeding for judicial review by any court of decisions of any agency as defined in §15.0411, subd. 2 the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusions or decisions are: (a) in violation of constitutional provisions; or (b) in excess of the statutory authority or jurisdiction of the agency; or (c) made upon unlawful procedures; or (d) affected by other error of law; or (e) unsupported by substantial evidence in view of the entire record as submitted; or (f) arbitrary or capricious.

It is well established that the reviewing court is to accord considerable deference to an agency decision when it is supported by substantial evidence. See e.g. Murphy Motor Freight, 307 Minn. 444, 339 N.W. 2d 926 (1976); Gibson v. Civil Services Board, 285 Minn. 123, 171 N.W.2d 712 (1969). Deference to agency findings is based upon the agency's unique knowledge of and expertise in the regulated field. St. Paul Area Chamber of Commerce v. Minnesota Public Service Commission, 251 N.W.2d 350 (Minn. 1977). If supported by substantial evidence, the reviewing court is to uphold an agency determination although

it may have reached a different decision. Reserve Mining Co. v. Herbst, 256 N.W.2d 808 (Minn. 1977); Vicker v. Starkey, 265 Minn. 464, 122 N.W.2d 169 (1963).

The Court rejects petitioners' argument that a standard of review other than the substantial evidence test should be applied by this Court. However, having reviewed all files and records herein, the Court is convinced that under any standard, the Commissioner's findings and conclusions in each of the cases herein are correct and should be in all respects affirmed.

Insofar as the common issues of law are concerned, petitioners challenge the Commissioner's penalty assessments in each case on essentially four grounds: (1) that the Office of Health Facility Complaints has no authority to issue assessments; (2) that the Commissioner has no present authority to impose the assessments in question; (3) that the assessments must be dismissed due to the failure to make timely reinspections as required by Minn. Stat. §144A.10 subd. 5; and (4) that Minn. Stat. §144.653 subd. 6 and Minn. Stat. §144A.10 subd. 6 are unconstitutional due to the absence of criteria or standards to control agency discretion.

The Court is unpersuaded by petitioners' contention that the Office of Health Facility Complaints (hereinafter "OHFC") lacks the requisite authority to issue the challenged assessments. Minn. Stat. 144A.10 subd. 4 and 5 (1978) allows the Commissioner to authorize a representative to issue correction orders, to conduct reinspections, and if the facility has not complied with the correction orders, to issue a notice of assessment. There is no legislative restriction on the authority of the Commissioner to designate the representative of his choice to carry out the duties set forth in Minn. Stat. §144A.10. By reviewing and upholding the assessments imposed by the OHFC, the Commissioner has clearly recognized it as his representative.

Secondly, petitioners argue that because no schedule of fines has been adopted by the Commissioner as mandated under Minn. Stat. §144A.10 subd. 6 (1978), the Commissioner has no authority to issue penalty assessments. The subject statute provides:

> A nursing home which is issued a notice of noncompliance with a correction order shall be assessed a civil fine in accordance with a schedule of fines promulgated by rule of the commissioner of health. The fine shall be assessed for each day the facility remains in noncompliance and until a notice of correction is received by the commissioner of health in accordance with subdivision 7. No fine may exceed $350 per day of noncompliance.

(Emphasis added).

The Court finds the argument of petitioners unpersuasive. The existing schedule of fines found in Minn. Rule MHD 57 was promulgated in 1975 pursuant to the authority of Minn. Stat. §144.653 subd. 6 (1974, as amended in 1975). By virtue of the continuity provision contained in Minn. Stat. §144A.29 subd. 1 (1978), the rule clearly remains effective and is dispositive of the issue. Minn. Stat. §144A.29 subd. 1 provides:

> The provisions of any rule affecting nursing homes...heretofore promulgated in accordance with chapter 144...shall remain effective with respect to nursing homes...until repealed, modified or superceded by a rule promulgated in accordance with Laws 1976, chapter 173.

Although arguably, the Commissioner may be criticized for failing to expeditiously promulgate rules in accordance with Minn. Stat. §144.10 subd. 6, the Commissioner's absence of diligence does not vitiate the schedule of fines contained in MHD 57.

Petitioner's third argument is that the failure to make timely reinspections requires dismissal of the challenged assessments. The reinspections in the cases herein involved occurred three to five months after the period allowed for

correction had expired. Minn. Stat. §144A.10 subd. 5 (1978) provides in part:

> A nursing home issued a correction order under this section shall be reinspected at the end of the period allowed for correction. The reinspection may be made in conjunction with the next annual inspection or any other scheduled inspection.

By Minn. Law 1977 ch. 326 §5, the legislature amended the statute by adding the last sentence. The amendment allows a measure of flexibility and specifically permits the agency to choose when the reinspection will occur. Hence, petitioners are not entitled to dismissal of the subject assessment on timeliness grounds.

Petitioners' final argument is that Minn. Stat. §144.653 subd. 6 (1976) and Minn. Stat. §144A.10 subd. 6 (1978) are unconstitutional because the subject provisions allow the Commissioner to adopt rules fixing the amount of penalty assessment for violation of a nursing home rule without sufficient standards to control or guide administrative discretion. Those provisions provide:

> If upon reinspection it is found that the licensee of a facility required to be licensed under the provisions of sections 144.50 to 144.58 has not corrected deficiencies specified in the correction order, a notice of noncompliance with a correction order shall be issued stating all deficiencies not corrected. Unless a hearing is requested under subdivision 8, the licensee shall forfeit to the state within 15 days after receipt by him of such notice of noncompliance with a correction order up to $1,000 for each deficiency not corrected. For each subsequent reinspection, the licensee may be fined an additional amount for each deficiency which has not been corrected. All forfeitures shall be paid into the general fund. The commissioner of health shall promulgate by rule and regulation a schedule of fines applicable for each type of uncorrected deficiency. Minn. Stat. §144.653 subd. 6.
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> A nursing home with is issued a notice of noncompliance with a correction order shall be assessed a civil fine in accordance with a schedule of fines promulgated by rule of the commissioner of health. The fine shall

be assessed for each day the facility remains in noncompliance and until a notice of correction is received by the commissioner of health in accordance with subdivision 7. No fine for a specific violation may exceed $250 per day of noncompliance. Minn. Stat. §144A.10.

Minnesota has permitted a broad delegation of discretionary authority to administrative officers. City of Minneapolis v. Krebes, 303 Minn. 219, 266 N.W.2d 615 (1975). If a law relates to the administration of a regulation which is necessary for the protection of the general health, safety and welfare and if it is impracticable to define a comprehensive rule, the lack of a specific, express standard in the legislation will not render the law unconstitutional. Anderson v. Commissioner of Highways, 267 Minn. 308, 126 N.W.2d 778 (1964). It simply would not be practical for the legislature to anticipate the numerous possible violations for which a correction order may issue. Setting forth a maximum fine and allowing the Commissioner to apply his expertise in promulgating a specific schedule of fines is sufficient for constitutional purposes. The challenged statutes confer upon the Commissioner the power to fashion a reasonable schedule of fines for the violation of specific nursing home rules. See Lee v. Delmont, 228 Minn. 101, 36 N.W. 2d 530 (1949).

For the foregoing reasons, the challenged assessments are in all respects affirmed.

R.K.L.