

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Our File No. 484

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-20-83
DATE FOR REVIEW 1-3-84
DATE DUE 1-9-84

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

Approved 1-9-84 mjC Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 12/21/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed + Amendments to Rules as Proposed - labelled as Hearing Exhibit A.

✓ Order Adopting 12.5.83 Date

✓ Notice of Intent to Solicit Outside Opinion 9R. 10.4.82

✓ Order for rulemaking
9.23.83 date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
8.22.83 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

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

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
✓ 11.2.83 Approving H.E.'s Report + disapproving in part
✓ 12.12.83 Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness + SONR of Amendments to Proposed Rules

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
misstates A.G. address

✓ Compliance with Ch. 188 - see HE 6

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
550 SPACE CENTER BLDG.
444 LAFAYETTE ROAD
ST. PAUL, MN 55101
TELEPHONE: (612) 296-6951

December 19, 1983

Martha Casserly
Special Assistant Attorney General
204 Administration Building
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

Dear Marty:

Enclosed for your review, please find the rules of the Commissioner of Labor and Industry governing Qualified Rehabilitation Consultants and Vendors.

If you have any questions on this, or if I can be of any assistance, please give me a call.

Very truly yours,

KATHLEEN L. WINTERS
Special Assistant
Attorney General
(612) 297-4393

KLW:jsb

p.s. Thanks for your help on the Prevailing Wage rules.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Steve Keefe, Commissioner DATE: 1/9/84

Attn: KATHLEEN L. WINTERS, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY MJC PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry, Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

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.
MJC/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

RS1
RS14
AG copy

Department of Labor and Industry
Workers' Compensation Rehabilitation Services

Adopted Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

Rules as Adopted

RS 1. Definitions. For the purposes of RS 1.-19., the following terms have the meanings given them.

A.-K. [Unchanged.]

L. "Rehabilitation services" means the division of rehabilitation services of the Department of Labor and Industry.

L. [Reletter as M.]

N. "Rehabilitation provider" means the following four categories of rehabilitation professionals: qualified rehabilitation consultants; qualified rehabilitation consultant interns; qualified rehabilitation consultant firms; and registered rehabilitation vendors.

RS 14. Qualifying eligibility criteria for rehabilitation consultant.

The eligibility criteria and procedures in A.-D. shall be used by the commissioner in determining who is qualified for registration as a qualified rehabilitation consultant.

A. Educational background. A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:

1. Holder of a masters or doctorate degree in vocational rehabilitation or related fields of counseling and guidance, psychology, social work, or physical rehabilitation (occupational therapy, physical therapy, nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

2. Holder of a baccalaureate degree in vocational rehabilitation or related fields of counseling and guidance, psychology, social work, or physical rehabilitation (occupational therapy, physical therapy, nursing), from an accredited institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of injured workers.

B. Rehabilitation consultant intern. An individual who meets the minimum educational requirements but does not meet the minimum experience requirements may be registered as a consultant intern. When the intern is registered, the intern's employer shall provide the commissioner with the name of the qualified rehabilitation consultant under whose direct supervision the intern will work. The supervisor shall be considered to be directly responsible for the rehabilitation work on any case. The supervisor shall co-sign all work being done by the intern. So that all parties are aware of the intern's status, he shall be designated as an "intern." The intern may make application for "qualified" status when the minimum requirements in RS 14 A.1. or 2. have been met.

Ex. A.

Substantiated complaints about professional behavior or services, or failure to comply with laws, rules, ~~policies and procedures,~~ or decisions and orders are grounds for denial of registration as a qualified rehabilitation consultant. The intern may appeal the denial as provided in rule RS 15 B.

Ex. A.

In cases where an intern has been supervised by a qualified rehabilitation consultant/affiliated who leaves the organization with which he has been affiliated and no other qualified rehabilitation consultant is available to supervise the intern, the intern may, with the approval of the commissioner, temporarily sign all required documents in the capacity of a qualified rehabilitation consultant. Past performance and overall experience will be taken into consideration for this approval.

RS 15

C. Experience criteria. The burden of proof of experience shall be on the applicant. This shall include documentation of a history of employment in a position of physical rehabilitation or vocational rehabilitation. The experience requirements of A. for qualified rehabilitation consultants can be met only by full-time paid employment. School internship and volunteer activities are not acceptable as employment experience.

Supporting documents shall consist of signed statements by present and previous employers and insurers specifying the services, caseload, and amount of time spent in rehabilitation of work-related injuries and diseases.

D. General criteria. All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

All persons who are qualified rehabilitation consultants shall be residents of Minnesota. An organization authorized for the employment of qualified rehabilitation consultants may request an exception for a consultant who lives contiguous to a Minnesota catchment area if the organization and any such consultant agrees, as a condition to approval, to appear at any hearing when requested, in the same manner as if they had been subpoenaed. Failure to do so shall result in automatic revocation of the individual consultant's approval.

A qualified rehabilitation consultant operating on the effective date of this amendment ~~with approval and registration~~ Ex. A who is registered is deemed to meet the standards of this rule. Qualified rehabilitation consultant interns operating on the effective date of this amendment ~~with approval and registration~~ Ex. A who are registered must meet the minimum requirements of this rule in order to make application for qualified rehabilitation consultant registration.

RS 15. Procedure for qualifying as rehabilitation consultant.

A. Application. An individual desiring to receive approval and registration as a qualified rehabilitation consultant shall

submit to the commissioner, a complete application consisting of the following:

1. completed and signed application form ~~(~~which is notarized~~)~~;

2. copy of current license or certification;

3. supporting experience documentation;

4. transcripts of all schools attended beyond high school;

5. list of pertinent continuing education by title, location, and date;

6. list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and

7. the annual registration fee, which shall consist of $100 for qualified rehabilitation consultant firms and $50 for each qualified rehabilitation consultant or qualified rehabilitation consultant intern.

The commissioner shall issue a notice of acceptance or rejection to the applicant within 60 days of receipt of the completed application ~~and~~. Acceptance will be provisional until the completion of an introductory training session.

B. Appeal process. The appeal process provides a mechanism for applicants to request reconsideration of a rejected application for registration, renewal, and reinstatement.

A written notice of appeal shall be filed with the commissioner within 15 days of mailing of notice of disapproval.

The decision shall be reviewed by the review panel. The applicant shall be advised of the date, time, and place of the review at least ten days prior to the hearing date, and is encouraged to be present.

C. Registration. The commissioner shall assign a registration number to each qualified rehabilitation consultant. The registration number shall be on all reports submitted by the consultant.

To retain registration, the consultant must submit satisfactory evidence of approved continuing education pertinent to the workers' compensation rehabilitation field equivalent to

15 contact hours each year at the time registration is renewed.

D. Renewal. Registration shall be renewed annually. If an interval of one year occurs without providing direct case service or without providing supervision to qualified rehabilitation consultants or qualified rehabilitation consultant interns who provide direct case service to workers' compensation recipients, the registration and approval is automatically ~~revoked-and-reinstatement-will-be-required-in accordance-with-the-minimum-requirements-in-effect-on-the-date of-application-for-reinstatement~~ suspended. A qualified rehabilitation consultant or intern may apply for reinstatement by providing verification to rehabilitation services of his attendance at the annual update sessions and fulfillment of continuing education requirements as provided by RS 1.-19. The applicant must complete an introductory training session before approval is final. The suspension may be appealed to the rehabilitation review panel in accordance with RS 15. E.2.

Ex. A + HE 12

Services and fee schedules shall be submitted to the commissioner whenever there is a change or no less than once each calendar year. This filing shall not constitute an approval or disapproval of the services or fees.

No later than 60 days prior to expiration of registration, the consultant shall request registration renewal on a form prescribed by the commissioner.

E. Revocation. The commissioner may review the activities of registered qualified rehabilitation consultants and vendors to determine if they are in compliance with all rehabilitation services' rules.

See HE 13 + CHE 11/2.

1. When the commissioner becomes aware of an ~~apparent~~ alleged violation concerning a qualified rehabilitation consultant or vendor he shall ~~write~~ notify in writing the qualified rehabilitation consultant or vendor. The qualified rehabilitation consultant or vendor may then respond by letter or by requesting an administrative conference. If the qualified rehabilitation consultant or vendor does not request an administrative conference, the commissioner ~~may~~ shall order that

Ex A

HE 14

a conference occur unless the complaint is found to be frivolous or without merit. After the administrative conference, the commissioner shall determine if he should discipline the individual or firm based upon applicable rules and statutes and all evidence gathered by the conference. Regardless of the commissioner's decision, he shall issue an order setting forth the reasons for his actions. If discipline is decided on by the commissioner, it ~~may~~ shall consist of one or more of the following:

a. a written reprimand requesting the individual or firm to cease actions which resulted in the lack of compliance with rehabilitation services' rules;

b. a full restitution of improperly charged fees and services by the individual or firm to the insurance carrier;

c. an extension of intern status for up to six months beyond RS 14 requirements for application;

d. a restriction or prohibition on accepting new cases for up to six months.

If the commissioner imposes discipline twice in five years upon an individual or firm, the next ~~apparent~~ alleged violation shall be referred to the rehabilitation review panel for review ~~and any appropriate further~~. An individual's discipline shall not be attributed to his employing firm unless the violation for which discipline is imposed also constitutes a violation by the firm and results in discipline to the firm.

2. An individual or firm may appeal the commissioner's disciplinary action to the rehabilitation review panel by requesting a hearing in writing to the director of rehabilitation services within 30 calendar days of the commissioner's determination.

3. Upon the commissioner's referral of a third ~~apparent~~ alleged violation, the firm or individual shall be given written notice of the referral and grounds for the review.

4. The rehabilitation review panel shall follow the hearing procedures set forth in Minnesota Statutes, section 176.102, subdivision 3a. The panel ~~may~~ shall take one or more

of the following actions in reviewing rehabilitation providers alleged violations such as:

a. Absolving the individual or firm of any alleged rehabilitation rule ~~apparent~~ violation ~~and dismissal of the complaint~~;

b. Written reprimand;

c. Demotion of a qualified rehabilitation consultant to qualified rehabilitation consultant intern status;

d. Probation of a qualified rehabilitation consultant, qualified rehabilitation consultant intern, or vendor ~~during which time another disciplinary action review by the panel would result in revocation~~;

e. Revocation of qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor status.

5. Procedures to appeal the determination of the review panel shall be as follows:

a. The panel's written decision and order shall act as a final order for purposes of implementing discipline. The decision is appealable to the Workers' Compensation Court of Appeals and must be filed in accordance with its rules; and

b. Unless otherwise ordered by the panel, an individual or firm whose registration has been revoked must wait at least one year from the effective date of revocation to reapply for a registered status.

RS 17. Procedure for approval as registered rehabilitation vendor.

A. Application. A private or public entity desiring to be approved as a registered rehabilitation vendor shall submit to the commissioner a complete application consisting of the following:

1. a completed and signed application;

2. any data or information attached to support an application;

3. a list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees;

RS 18

and

4. the annual registration fee of $100 for each registered vendor.

B. Appeal process. The appeal process herein shall be conducted the same as that provided in RS 15 B.

C. Renewal. The renewal process herein shall be conducted the same as that provided in RS 15 D.

D. Revocation. The revocation process herein shall be conducted the same as that provided in RS 15 E.

RS 18. Standards of performance.

~~A. Goals.--A-qualified-rehabilitation-consultant,-qualified rehabilitation-consultant-intern,-and-vendor-should-strive-to meet-certain-policies-recognized-by-rehabilitation-services-as fundamental-to-the-rehabilitation-profession.--The-statements-in 1.-8.-are-objectives-that-rehabilitation-services-promotes-to constantly-upgrade-the-quality-of-professional-rehabilitation care.~~

~~1.--The-welfare-of-the-injured-employee-should-be-the primary-focus-of-concern,-communications,-and-activity-by-the qualified-rehabilitation-consultant-or-vendor.~~

~~2.--The-qualified-rehabilitation-consultant-or-vendor should-maintain-a-fair-and-objective-position-in-dealing-with the-employee,-employer,-and-insurer.~~

~~3.--The-qualified-rehabilitation-consultant-or-vendor should-maintain-objective-and-effective-lines-of-communication with-all-members-of-the-rehabilitation-team:--the-employee, employer,-insurer,-attorney,-physician,-qualified-rehabilitation consultant,-and-vendor.~~

~~4.--A-qualified-rehabilitation-consultant-or-vendor-should withdraw-from-any-case-in-which-achieving-rehabilitation-goals is-being-interfered-with-by-the-lack-of-rapport-between-the qualified-rehabilitation-consultant-or-vendor-and-the-employee or-in-which-there-are-personality-conflicts-between-the-employee and-the-qualified-rehabilitation-consultant-or-vendor.~~

~~5.--A-qualified-rehabilitation-consultant-or-vendor-should keep-abreast-of-professional-advances-and-topics-by~~

deleted per HE 20

participation in continuing education programs.

6. --Rehabilitation providers should carry professional liability insurance for the protection of themselves and affected third parties.

7. --A qualified rehabilitation consultant or vendor should not engage in any form of discrimination.

8. --Any discussion, comments, or criticisms directed toward or about a fellow professional rehabilitation provider or organization should be positive or constructive.

HE 20

B. Minimal standards. The standards of conduct described in C. G. B.-F. establish minimum standards concerning the professional activities of qualified rehabilitation consultants and rehabilitation vendors in Minnesota. The performance evaluations by rehabilitation services of qualified rehabilitation consultants and vendors will be based upon these standards, as well as on the adherence to Minnesota Statutes, section 176.102 and rules adopted to administer it.

C. B. Professional conduct.

1. In accord with RS 1, J., the qualified rehabilitation consultant or vendor shall provide rehabilitation services under a rehabilitation plan. The qualified rehabilitation consultant or vendor shall implement only those rehabilitation plans with which the employee, the employer/insurer, and the qualified rehabilitation consultant agree.

2. Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant, shall be involved at any given time in the employee's rehabilitation effort, except as stated in 4. and 5. The assigned qualified rehabilitation consultant must submit the R-2 rehabilitation plan within 30 days of referral and must submit subsequent R-3 rehabilitaton progress reports every 30 days to the office of rehabilitation services and the other parties. This rule shall not apply to a qualified rehabilitation consultant acting on behalf of the reinsurance association in a monitoring or advisory capacity on a reinsurance claim file.

What happens when don't follow HE?

See HE 21, F&F 2.

3. A qualified rehabilitation consultant shall not provide services to any parties after there has been an approved change of qualified rehabilitation consultant except as provided in 4. and 5.

4. A qualified rehabilitation consultant shall cooperate in transferring to a newly approved qualified rehabilitation consultant all data, reports, and relevant information within 15 days from the ~~date of letter~~ receipt (Ex. A. 15) of rehabilitation services letter approving the new qualified rehabilitation consultant.

5. If a hearing has been scheduled before a judge or a judicial body, a qualified rehabilitation consultant who is not the approved qualified rehabilitation consultant may perform an evaluation of the employee at the request of one of the parties. Rehabilitation services shall be notified in writing of the qualified rehabilitation consultant requested to do the evaluation. A copy of the evaluation report, if developed, shall be sent to rehabilitation services.

6. A qualified rehabilitation consultant who has testified as an expert witness for any party in a judicial hearing may not function as the ongoing qualified rehabilitation consultant on the case unless agreed to by the ~~parties~~ employee (Ex. A. 16).

7. A qualified rehabilitation consultant or vendor may make recommendations for referrals to appropriate resources.

8. The roles and functions of a claims agent and a qualified rehabilitation consultant or vendor are separate. A qualified rehabilitation consultant or vendor, or an agent of a rehabilitation provider, shall engage only in those activities designated in Minnesota Statutes, section 176.102, its rules ~~and policies and procedures~~ (Ex. A. 17). Claims adjustment and claims investigation ~~are prohibited~~ activities such as unilaterally providing for an adverse medical, vocational, or rehabilitation examination except as provided for in RS 18. B.5., aiding insurers in determining monetary workers' compensation benefits, or determining the reasonableness of medical or rehabilitation service are prohibited for a rehabilitation provider. This rule shall not prohibit a qualified rehabilitation consultant acting

(Ex. A. 17 amend)

on behalf of the reinsurance association from consulting with the primary qualified rehabilitation consultant regarding the rehabilitation plan.

~~D.~~ C. Communications.

1. All reports submitted by a qualified rehabilitation consultant or vendor shall be legible and show the employee's name, social security number, date of injury, street address, county, zip code of residence, and legal representative, if any.

2. All reports shall be submitted in accordance with rehabilitation services' ~~policy, procedure, and~~ forms as prescribed by the commissioner under Minnesota Statutes, section 176.165. EX A.18

3. The employer shall be provided with copies of all reporting forms.

4. Vendors are to submit all reports directly to the qualified rehabilitation consultant.

5. A qualified rehabilitation consultant or vendor must comply with all applicable data privacy acts.

6. A qualified rehabilitation consultant or vendor shall not engage in communications with a physician concerning an employee without a release of information form from the employee.

7. A qualified rehabilitation consultant or vendor shall not make recommendations concerning an intent to or date of retirement but may assist an employee in contacting resources concerning a choice of retirement or return to work.

8. A qualified rehabilitation consultant or vendor shall not recommend entering into settlement agreements.

9. A qualified rehabilitation consultant or vendor shall request only that information and data which will assist the parties in developing and carrying out the rehabilitation plan. ~~They are prohibited from making investigations for claims processing purposes.~~ EX A 19

10. ~~A~~ The qualified rehabilitation consultant or vendor assigned to a case shall provide all reports written by all parties regarding a case to rehabilitation services. This rule shall not apply to the reinsurance association, unless the EX A 20

reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g). EX.A.20

11. A qualified rehabilitation consultant shall provide a vendor access to all appropriate medical and rehabilitation reports relating to a case.

~~E.~~ D. Responsibilities.

1. A qualified rehabilitation consultant is to instruct the employee ~~in~~ of his rights and responsibilities by ~~providing~~ ~~and~~ reviewing with him ~~the R-12~~ the purpose of rehabilitation services and the rights and responsibilities of the injured ~~Worker form together with The Rehabilitation Feedback form during the initial interview~~ workers. EX.A.21 must be singular.?

2. A qualified rehabilitation consultant or vendor shall be knowledgeable and informed regarding portions of the workers' compensation law, rules, ~~policies, and procedures~~ that directly EXA.22 relate to the provision of rehabilitation services. If a qualified rehabilitation consultant or vendor communicates inaccurate information regarding workers' compensation not directly related to rehabilitation services, the rehabilitation provider is subject to discipline.

3. A qualified rehabilitation consultant or vendor ~~shall~~ may contact rehabilitation services to clarify any rehabilitation issues or problems. EXA.23

4. A qualified rehabilitation consultant or vendor's registration is subject to disciplinary action up to and including revocation based on substantiated complaints about professional behavior, or services, ~~or for failure to comply~~ which show noncompliance with established laws, rules, ~~policies and procedures,~~ decisions, or orders. HE 23, CHE 1/2 EX.A.24

~~F.~~ E. Continuing education and competencies.

1. A qualified rehabilitation consultant or vendor shall attend at least one introductory training session provided by rehabilitation services within six months of being registered ~~provided by rehabilitation services~~. EXA.25

2. Rehabilitation services annual update sessions are

mandatory for all qualified rehabilitation consultants, qualified rehabilitation consultant interns, and all registered vendors.

~~G.~~ F. Business practices. All registered qualified rehabilitation consultants, qualified rehabilitation consultant interns, and vendors shall abide by the following rules concerning a provider's business practices.

1. Rehabilitation providers shall adhere to all applicable federal, state, and local laws regulating business practices.

2. Rehabilitation providers shall not misrepresent themselves, their duties, or credentials. A rehabilitation provider must not promise or offer services or results he cannot deliver or has reason to believe he cannot provide. Competitive advertising must be factually accurate and must avoid exaggerating claims as to costs, results, and endorsements by other parties. ~~When recruiting employees, rehabilitation providers must not falsely promise benefits, employment advancement, or salaries which they know or have reason to know they cannot provide.~~ EXA.26

3. If a fellow rehabilitation provider violates RS 1.-19., a ~~qualified~~ rehabilitation ~~consultant or vendor~~ provider having ~~information~~ actual personal knowledge about the violation must direct the information to rehabilitation services. EXA.27

4. A provider shall not solicit referrals directly or indirectly by offering money or gifts. De minimis gifts are not considered the offering of money or gifts. De minimis gifts are those that have a fair market value of less than $25.

5. A rehabilitation provider shall advise the referral source and payer of its fee structure in advance of rendering any services and shall also furnish upon request, detailed and accurate time records regarding any bills in question.

6. Any fee arrangement which prevents individual assessment and services for each employee shall subject the providers to discipline. Any fee arrangement which provides employees with standardized services whether or not the services

RS19

are necessary shall also subject the ~~parties~~ rehabilitation providers to discipline. EXA.28

7. A rehabilitation provider shall not incur profit, split fees, or have an ownership interest with another rehabilitation provider outside of his or her own firm.

8. Qualified rehabilitation consultants shall not incur profit ~~through~~, split fees, or have an ownership interest with health care providers ~~or split fees through referrals with health care providers~~. "Health care providers" means those defined in Minnesota Statutes, section 176.011, subdivision 24. EXA.29

9. The prohibitions of 6., 7., and 8. shall not be construed to prevent married couples or family members from engaging simultaneously in rehabilitation or health care.

RS 19. Rehabilitation services and fees.

A. Fee monitoring.

1. Rehabilitation services has the responsibility and jurisdiction under Minnesota Statutes, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to rule RS 13.

2. The employer/insurer has the primary responsibility for monitoring and paying the cost of necessary rehabilitation services provided. Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.

3. Rehabilitation services shall conduct periodic audits of costs and services. The employer/insurer and the rehabilitation provider shall provide rehabilitation services with itemized services and costs upon request. Rehabilitation services must contact the parties to discuss costs and services deemed questionable by rehabilitation services or one of the parties. Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.

B. Reasonable and necessary services. A qualified rehabilitation consultant or vendor shall bill for only those necessary and reasonable services which are rendered in accordance with rehabilitation services rules ~~and policies and procedures~~ during completion of a plan. Reasonable and necessary services and fees shall be determined by the commissioner. The commissioner's review must include all the following factors~~, but may include other factors if enumerated in his eventual determination. These factors are~~:

1. The employee's unique disabilities and assets in relation to the goals, objectives, and timetable of the rehabilitation plan;

2. The type of rehabilitation services provided and the actual amount of time and expense incurred in providing the service;

3. The rehabilitation providers' fee schedules on file with rehabilitation services and other fee schedules of providers on file with rehabilitation services;

4. An evaluation of whether services provided were unnecessary, duplicated other services, available at no charge to public, or were excessively sophisticated for the actual needs of the employee;

5. An evaluation of whether services rendered were expressly authorized by either the employer, insurer, or rehabilitation services;

6. An evaluation of whether Minnesota Statutes, chapter 176, and rehabilitation services' rules RS 1.-19. have been followed by the provider.

No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

C. Reporting requirements. ~~All~~ The qualified rehabilitation ~~consultants~~ consultant assigned to an employee must provide

rehabilitation services with ~~certain~~ the following information regarding an employee's case for purposes of rehabilitation services' monitoring of services and overall record keeping requirements. This rule shall not apply to the reinsurance association, unless the reinsurance association has assumed primary responsibility for the claim pursuant to Minnesota Statutes, section 79.35, clause (g). EXA31

1. The qualified rehabilitation consultant shall provide rehabilitation services with an initial evaluation narrative report concerning the employee which will include the following information in summary fashion:

a. medical status;

b. vocational history;

c. educational history;

d. social/ and economic status; EXA.32

e. transferable skills;

f. employment barriers; and

g. recommendations;

2. The qualified rehabilitation consultant shall provide narrative progress reports, if needed, of up to one page;

3. The qualified rehabilitation consultant shall send attached to progress reports required by 2. completed copies of all vendor reports, medical, psychological, and vocational reports regarding an employee's case.

4. The qualified rehabilitation consultant shall also forward to rehabilitation services copies of completed reports prepared for other parties by him or her.

The requesting party shall pay for all costs incurred by a rehabilitation provider in creating a report not required by rehabilitation services.

D. Estimated goal dates and costs. When developing the rehabilitation plan and progress reports, the qualified rehabilitation consultant must make a professional judgment regarding any projected goal date and estimated costs. This shall include projected goal date and estimated costs submitted by any vendor. When the date or cost has been exceeded, the

qualified rehabilitation consultant and any rehabilitation vendor must submit to rehabilitation services an itemized billing and no more than a one page rationale regarding continued provision of rehabilitation services. The rehabilitation provider is to submit the rationale to the employer/insurer. If the parties are unable to agree about continued rehabilitation services, any party may request a review by rehabilitation services. Ex.A.33

E. Invoices. Invoices are to be attached to all plan completion forms.

F. Consent of employer/insurer; exceptions. A qualified rehabilitation consultant or vendor shall obtain the express consent of the employer/insurer before providing the following services, however, the presence or the absence of express consent shall not preclude rehabilitation services from determining the reasonable value or necessity of these services:

1. when not directed to plan objectives, Ex.A.34 costs for physician visits, phone calls to physicians, accompanying employee to appointments or examinations ~~not directed to plan objectives~~;

2. follow-up activity with employers during job placement services to verify employee applications not arranged by qualified rehabilitation consultant or vendor;

3. phone calls to rehabilitation services regarding general procedures on questions or rehabilitation direction, not related to a specific rehabilitation plan; Ex.A.35

4. unanswered attempted phone calls;

5. time spent for report writing not requested by a party Ex.A.36 beyond items indicated in the reporting guidelines of C.;

6. qualified rehabilitation consultant billings during vendor activity periods beyond required reporting or specific problem solving activity;

7. time for attendance ~~of a~~ at an administrative conference by the supervisor ~~or observer at administrative conferences when~~ of the qualified rehabilitation consultant who is providing services to the employee; Ex.A.37

8. any services rendered prior to the acceptance of eligibility for rehabilitation by an insurer or determination or eligibility by rehabilitation services;

9. time spent reviewing the file and initial contact to establish rapport with interested parties by a qualified rehabilitation consultant or vendor when a case has been transferred from another qualified rehabilitation consultant or vendor within the same rehabilitation firm;

10. time spent by a supervisor, another qualified rehabilitation consultant, or support staff in addition to the qualified rehabilitation consultant of record except as provided for in RS 18. B.2.; } EX A 38

11. job placement activities beyond 90 days from the start of the job placement effort without a plan review;

12. wait time for ~~cold-call~~ a visit without a prearranged meeting or early arrival for a prearranged appointment; } EX A 39

13. time spent by a qualified rehabilitation consultant selected by the employee before approval of a qualified rehabilitation consultant change has been issued by rehabilitation services;

14. services that are not needed or repeat services already done.

15. charges beyond the hourly fee for testimony at a judicial hearing when the qualified rehabilitation consultant or vendor has provided rehabilitation service under the plan;

16. travel costs beyond those needed to develop or complete a plan; or

17. any disputed services and fees in regard to rehabilitation provided.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 1 1 1984 1:10 P.M.

Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
January 9 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

RS 1. Definitions. For the purposes of RS 1.-~~17.~~ 19., the following terms have the meanings given them.

A.-K. [Unchanged.]

L. "Rehabilitation services" means the division of rehabilitation services of the Department of Labor and Industry.

L. [Reletter as M.]

N. "Rehabilitation provider" means the following four categories of rehabilitation professionals: qualified rehabilitation consultants; qualified rehabilitation consultant interns; qualified rehabilitation consultant firms; and registered rehabilitation vendors.

RS 14. Qualifying eligibility criteria for rehabilitation consultant.

The ~~following~~ eligibility criteria and procedures in A.-D. shall be used by the commissioner in determining who is qualified for registration as a qualified rehabilitation consultant.

~~a.~~ A. Educational background. A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:

~~i.~~ 1. Holder of a masters or doctorate degree in vocational rehabilitation or related fields of counseling and guidance, psychology, social work, or physical rehabilitation (occupational therapy, physical therapy, nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of ~~work-related-injuries-and-diseases~~ injured workers.

~~or~~

~~ii.~~ 2. Holder of a baccalaureate degree in vocational rehabilitation or related fields of counseling and guidance, psychology, social work, or physical rehabilitation

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

(occupational therapy, physical therapy, nursing), from an accredited institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of ~~work-related-injuries-and-diseases~~ injured workers.

~~or~~

~~iii.--Diploma-in-nursing-from-an-accredited-institution, plus-a-current-Minnesota-R.N.-license,-plus-three-years-of experience-in-physical-rehabilitation-or-vocational rehabilitation.--At-least-one-year-shall-have-been-spent-in rehabilitation-of-work-related-injuries-and-diseases.~~

~~or~~

~~iv.--Holder-of-any-baccalaureate-degree-other-than-listed in-ii-above-from-an-accredited-institution,-plus-three-years-of experience-in-vocational-rehabilitation.--At-least-one-year shall-have-been-spent-in-rehabilitation-of-work-related-injuries and-diseases.~~

~~or~~

~~v.--High-school-diploma,-plus-continuing-education-in-and five-years-experience-in-vocational-rehabilitation,-including counseling,-evaluation-and-direct-case-services.--Two-of-the five-years-shall-have-been-spent-in-rehabilitation-of-work related-injuries-and-diseases.~~

~~b.~~ B. Rehabilitation consultant intern:. An individual who meets the minimum educational requirements but does not meet the minimum experience requirements may be registered as a consultant intern. When the intern is registered, the intern's employer shall provide the commissioner with the name of the qualified rehabilitation consultant under whose direct supervision the intern will work. The supervisor shall be considered to be directly responsible for the rehabilitation work on any case. The supervisor shall co-sign all work being done by the intern. So that all parties are aware of the intern's status, he shall be designated as an "intern." The

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

intern may make application for "qualified" status when the minimum requirements in RS 14 A.1. or 2. have been met.

Complaints about professional behavior or services, or failure to comply with laws, rules, policies and procedures, or decisions and orders are grounds for denial of registration as a qualified rehabilitation consultant. The intern may appeal the denial as provided in rule RS 15 B.

In cases where an intern has been supervised by a qualified rehabilitation consultant/affiliated who leaves the organization with which he has been affiliated and no other qualified rehabilitation consultant is available to supervise the intern, the intern may, with the approval of the commissioner, temporarily sign all required documents in the capacity of a qualified rehabilitation consultant. Past performance and overall experience will be taken into consideration for this approval.

~~c.~~ C. Experience criteria. The burden of proof of experience shall be on the applicant. This shall include documentation of a history of employment in a position of physical rehabilitation or vocational rehabilitation ~~of work related injuries and diseases. One year of experience in rehabilitation of work related injuries and diseases means one year of full time experience, two years of 50% of time experience, three years of 33 1/3% of time experience, or four years of 25% of time experience or any combination equal to 100% of one year's experience. The experience shall have been attained in not more than four consecutive years.~~ The experience requirements of A. for qualified rehabilitation consultants can be met only by full-time paid employment. School internship and volunteer activities are not acceptable as employment experience.

Supporting documents shall consist of signed statements by present and previous employers and insurers specifying the services, caseload, and amount of time spent in rehabilitation of work-related injuries and diseases.

~~d.~~ D. General criteria. All persons who are qualified

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

All persons who are qualified rehabilitation consultants shall be residents of ~~the state of~~ Minnesota. An organization authorized for the employment of qualified rehabilitation consultants may request an exception for a consultant who lives contiguous to a Minnesota catchment area if the organization and any such consultant agrees, as a condition to approval, to appear at any hearing when requested, in the same manner as if they had been subpoenaed. Failure to do so shall result in automatic revocation of the individual consultant's approval.

A qualified rehabilitation consultant operating on the effective date of this amendment with approval and registration is deemed to meet the standards of this rule. Qualified rehabilitation consultant interns operating on the effective date of this amendment with approval and registration must meet the minimum requirements of this rule in order to make application for qualified rehabilitation consultant registration.

RS 15. Procedure for qualifying as rehabilitation consultant.

~~a.~~ A. Application. An individual desiring to receive approval and registration as a qualified rehabilitation consultant shall submit to the commissioner, a complete application consisting of the following:

~~i.~~ 1. completed and signed application form (notarized); ~~and~~

~~ii.~~ 2. copy of current license or certification; ~~and~~

~~iii.~~ 3. supporting experience documentation; ~~and~~

~~iv.~~ 4. transcripts of all schools attended beyond high school; ~~and~~

~~v.~~ 5. list of pertinent continuing education by title, location, and date; ~~and~~

~~vi.~~ 6. list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

7. the annual registration fee, which shall consist of $100 for qualified rehabilitation consultant firms and $50 for each qualified rehabilitation consultant or qualified rehabilitation consultant intern.

The commissioner shall issue a notice of acceptance or rejection to the applicant within ~~45~~ 60 days of receipt of the completed application and completion of an introductory training session.

~~b.~~ B. Appeal process. The appeal process provides a mechanism for applicants to request reconsideration of a rejected application for registration, renewal, and reinstatement.

A written notice of appeal shall be filed with the commissioner within 15 days of mailing of notice of disapproval.

The decision shall be reviewed by the review panel. The applicant shall be advised of the date, time, and place of the review at least ten ~~(10)~~ days prior to the hearing date, and is encouraged to be present.

~~c.~~ C. Registration. The commissioner shall assign a registration number to each qualified rehabilitation consultant. The registration number shall be on all reports submitted by the consultant.

To retain registration, the consultant must submit satisfactory evidence of approved continuing education pertinent to the workers' compensation rehabilitation field equivalent to 15 contact hours each year at the time registration is renewed.

~~d.~~ D. Renewal. Registration shall be renewed ~~every two years~~ annually.

If an interval of one year occurs without providing direct case service or without providing supervision to qualified rehabilitation consultants or qualified rehabilitation consultant interns who provide direct case service to workers' compensation recipients, the registration and approval is automatically revoked and reinstatement will be required in accordance with the minimum requirements in effect on the date of application for reinstatement.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Services and fee schedules shall be submitted to the commissioner whenever there is a change or no less than once each calendar year. This filing shall not constitute an approval or disapproval of the services or fees.

No later than 60 days prior to expiration of registration, the consultant shall request registration renewal on a form prescribed by the commissioner.

~~c.~~ E. Revocation ~~Qualified-rehabilitation-consultant approval-and-registration-may-be-revoked-by-the-commissioner-for failure-to-comply-with-the-rules-or-policies-or-for-good-cause. Notice-of-and-reason-for-revocation-shall-be-mailed-to-the consultant-by-the-commissioner.~~

~~The-consultant-may-appeal-the-revocation-as-provided-in section-15,-b.~~

~~A-consultant-whose-registration-has-been-revoked-shall-wait at-least-180-days-from-the-date-of-mailing-of-revocation-to re-apply-for-approval.~~

The commissioner may review the activities of registered qualified rehabilitation consultants and vendors to determine if they are in compliance with all rehabilitation services' rules.

1. When the commissioner becomes aware of an apparent violation concerning a qualified rehabilitation consultant or vendor he shall write the qualified rehabilitation consultant or vendor. The qualified rehabilitation consultant or vendor may then respond by letter or by requesting an administrative conference. If the qualified rehabilitation consultant or vendor does not request an administrative conference, the commissioner may order that a conference occur. After the administrative conference, the commissioner shall determine if he should discipline the individual or firm based upon applicable rules and statutes and all evidence gathered by the conference. Regardless of the commissioner's decision, he shall issue an order setting forth the reasons for his actions. If discipline is decided on by the commissioner, it may consist of one or more of the following:

a. a written reprimand requesting the individual or

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

firm to cease actions which resulted in the lack of compliance with rehabilitation services' rules;

b. a full restitution of improperly charged fees and services by the individual or firm to the insurance carrier;

c. an extension of intern status for up to six months beyond RS 14 requirements for application;

d. a restriction on accepting new cases for up to six months.

If the commissioner imposes discipline twice upon an individual or firm, the next apparent violation shall be referred to the rehabilitation review panel for review and any appropriate further discipline.

2. An individual or firm may appeal the commissioner's disciplinary action to the rehabilitation review panel by requesting a hearing in writing to the director of rehabilitation services within 30 calendar days of the commissioner's determination.

3. Upon the commissioner's referral of a third apparent violation, the firm or individual shall be given written notice of the referral and grounds for the review.

4. The rehabilitation review panel shall follow the hearing procedures set forth in Minnesota Statutes, section 176.102, subdivision 3a. The panel may take one or more of the following actions:

a. Absolving the individual or firm of any rehabilitation rule apparent violation and dismissal of the complaint;

b. Written reprimand;

c. Demotion of a qualified rehabilitation consultant to qualified rehabilitation consultant intern status;

d. Probation of a qualified rehabilitation consultant, qualified rehabilitation consultant intern, or vendor during which time another disciplinary action review by the panel would result in revocation;

e. Revocation of qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

status.

5. Procedures to appeal the determination of the review panel shall be as follows:

a. The panel's written decision and order shall act as a final order for purposes of implementing discipline. The decision is appealable to the Workers' Compensation Court of Appeals and must be filed in accordance with its rules; and

b. Unless otherwise ordered by the panel, an individual or firm whose registration has been revoked must wait at least one year from the effective date of revocation to reapply for a registered status.

RS 17. Procedure for approval as a registered rehabilitation vendor.

~~a.~~ A. Application. A private or public entity desiring to be approved as a registered rehabilitation vendor shall submit to the commissioner a complete application consisting of the following:

~~i.~~ 1. a completed and signed application; ~~and~~

~~ii.~~ 2. any data or information attached to support an application; ~~and~~

~~iii.~~ 3. a list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and

4. the annual registration fee of $100 for each registered vendor.

~~b.~~ B. Appeal process. The appeal process herein shall be conducted the same as that provided in ~~section 15, b~~ RS 15 B.

~~c.~~ C. Renewal. The renewal process herein shall be conducted the same as that provided in ~~section 15, d~~ RS 15 D.

~~d.~~ D. Revocation. The revocation process herein shall be conducted the same as that provided in ~~section 15, e~~ RS 15 E.

Rules as Proposed (all new material)

RS 18. Standards of performance.

A. Goals. A qualified rehabilitation consultant, qualified rehabilitation consultant intern, and vendor should strive to

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

meet certain policies recognized by rehabilitation services as fundamental to the rehabilitation profession. The statements in 1.-8. are objectives that rehabilitation services promotes to constantly upgrade the quality of professional rehabilitation care.

1. The welfare of the injured employee should be the primary focus of concern, communications, and activity by the qualified rehabilitation consultant or vendor.

2. The qualified rehabilitation consultant or vendor should maintain a fair and objective position in dealing with the employee, employer, and insurer.

3. The qualified rehabilitation consultant or vendor should maintain objective and effective lines of communication with all members of the rehabilitation team: the employee, employer, insurer, attorney, physician, qualified rehabilitation consultant, and vendor.

4. A qualified rehabilitation consultant or vendor should withdraw from any case in which achieving rehabilitation goals is being interfered with by the lack of rapport between the qualified rehabilitation consultant or vendor and the employee or in which there are personality conflicts between the employee and the qualified rehabilitation consultant or vendor.

5. A qualified rehabilitation consultant or vendor should keep abreast of professional advances and topics by participation in continuing education programs.

6. Rehabilitation providers should carry professional liability insurance for the protection of themselves and affected third parties.

7. A qualified rehabilitation consultant or vendor should not engage in any form of discrimination.

8. Any discussion, comments, or criticisms directed toward or about a fellow professional rehabilitation provider or organization should be positive or constructive.

B. Minimal standards. The standards of conduct described in C.-G. establish minimum standards concerning the professional activities of qualified rehabilitation consultants and

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

rehabilitation vendors in Minnesota. The performance evaluations by rehabilitation services of qualified rehabilitation consultants and vendors will be based upon these standards, as well as on the adherence to Minnesota Statutes, section 176.102 and rules adopted to administer it.

C. Professional conduct.

1. In accord with RS 1, J., the qualified rehabilitation consultant or vendor shall provide rehabilitation services under a rehabilitation plan. The qualified rehabilitation consultant or vendor shall implement only those rehabilitation plans with which the employee, the employer/insurer, and the qualified rehabilitation consultant agree.

2. Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant, shall be involved at any given time in the employee's rehabilitation effort, except as stated in 4. and 5. The assigned qualified rehabilitation consultant must submit the R-2 rehabilitation plan within 30 days of referral and must submit subsequent R-3 rehabilitaton progress reports every 30 days to the office of rehabilitation services and the other parties.

3. A qualified rehabilitation consultant shall not provide services to any parties after there has been an approved change of qualified rehabilitation consultant except as provided in 4. and 5.

4. A qualified rehabilitation consultant shall cooperate in transferring to a newly approved qualified rehabilitation consultant all data, reports, and relevant information within 15 days from the date of letter of rehabilitation services approving the new qualified rehabilitation consultant.

5. If a hearing has been scheduled before a judge or a judicial body, a qualified rehabilitation consultant who is not the approved qualified rehabilitation consultant may perform an evaluation of the employee at the request of one of the parties. Rehabilitation services shall be notified in writing of the qualified rehabilitation consultant requested to do the

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

evaluation. A copy of the evaluation report, if developed, shall be sent to rehabilitation services.

6. A qualified rehabilitation consultant who has testified as an expert witness for any party in a judicial hearing may not function as the ongoing qualified rehabilitation consultant on the case unless agreed to by the parties.

7. A qualified rehabilitation consultant or vendor may make recommendations for referrals to appropriate resources.

8. The roles and functions of a claims agent and a qualified rehabilitation consultant or vendor are separate. A qualified rehabilitation consultant or vendor, or an agent of a rehabilitation provider, shall engage only in those activities designated in Minnesota Statutes, section 176.102, its rules and policies and procedures. Claims adjustment and claims investigation are prohibited activities for a rehabilitation provider.

D. Communications.

1. All reports submitted by a qualified rehabilitation consultant or vendor shall be legible and show the employee's name, social security number, date of injury, street address, county, zip code of residence, and legal representative, if any.

2. All reports shall be submitted in accordance with rehabilitation services' policy, procedure, and forms as prescribed by the commissioner.

3. The employer shall be provided with copies of all reporting forms.

4. Vendors are to submit all reports directly to the qualified rehabilitation consultant.

5. A qualified rehabilitation consultant or vendor must comply with all applicable data privacy acts.

6. A qualified rehabilitation consultant or vendor shall not engage in communications with a physician concerning an employee without a release of information form from the employee.

7. A qualified rehabilitation consultant or vendor shall not make recommendations concerning an intent to or date of retirement but may assist an employee in contacting resources

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

concerning a choice of retirement or return to work.

8. A qualified rehabilitation consultant or vendor shall not recommend entering into settlement agreements.

9. A qualified rehabilitation consultant or vendor shall request only that information and data which will assist the parties in developing and carrying out the rehabilitation plan. They are prohibited from making investigations for claims processing purposes.

10. A qualified rehabilitation consultant or vendor shall provide all reports written by all parties regarding a case to rehabilitation services.

11. A qualified rehabilitation consultant shall provide a vendor access to all appropriate medical and rehabilitation reports relating to a case.

E. Responsibilities.

1. A qualified rehabilitation consultant is to instruct the employee in his rights and responsibilities by providing and reviewing with him the R-12 The Purpose of Rehabilitation Services and The Rights and Responsibilities of the Injured Worker form together with The Rehabilitation Feedback form during the initial interview.

2. A qualified rehabilitation consultant or vendor shall be knowledgeable and informed regarding portions of the workers' compensation law, rules, policies, and procedures that directly relate to the provision of rehabilitation services. If a qualified rehabilitation consultant or vendor communicates inaccurate information regarding workers' compensation not directly related to rehabilitation services, the rehabilitation provider is subject to discipline.

3. A qualified rehabilitation consultant or vendor shall contact rehabilitation services to clarify any rehabilitation issues or problems.

4. A qualified rehabilitation consultant or vendor's registration is subject to disciplinary action up to and including revocation based on substantiated complaints about professional behavior, services, or for failure to comply with

APPROVED BY THE
REVISOR OF STATUTES
OFFICE BY:

established laws, rules, policies and procedures, decisions, or orders.

F. Continuing education and competencies.

1. A qualified rehabilitation consultant or vendor shall attend at least one introductory training session within six months of being registered provided by rehabilitation services.

2. Rehabilitation services annual update sessions are mandatory for all qualified rehabilitation consultants, qualified rehabilitation consultant interns, and all registered vendors.

G. Business practices. All registered qualified rehabilitation consultants, qualified rehabilitation consultant interns, and vendors shall abide by the following rules concerning a provider's business practices.

1. Rehabilitation providers shall adhere to all applicable federal, state, and local laws regulating business practices.

2. Rehabilitation providers shall not misrepresent themselves, their duties, or credentials. A rehabilitation provider must not promise or offer services or results he cannot deliver or has reason to believe he cannot provide. Competitive advertising must be factually accurate and must avoid exaggerating claims as to costs, results, and endorsements by other parties. When recruiting employees, rehabilitation providers must not falsely promise benefits, employment advancement, or salaries which they know or have reason to know they cannot provide.

3. If a fellow rehabilitation provider violates RS 1.-19., a qualified rehabilitation consultant or vendor having information about the violation must direct the information to rehabilitation services.

4. A provider shall not solicit referrals directly or indirectly by offering money or gifts. De minimis gifts are not considered the offering of money or gifts. De minimis gifts are those that have a fair market value of less than $25.

5. A rehabilitation provider shall advise the referral

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

source and payer of its fee structure in advance of rendering any services and shall also furnish upon request, detailed and accurate time records regarding any bills in question.

6. Any fee arrangement which prevents individual assessment and services for each employee shall subject the providers to discipline. Any fee arrangement which provides employees with standardized services whether or not the services are necessary shall also subject the parties to discipline.

7. A rehabilitation provider shall not incur profit, split fees, or have an ownership interest with another rehabilitation provider outside of his or her own firm.

8. Qualified rehabilitation consultants shall not incur profit through an ownership interest with health care providers or split fees through referrals with health care providers. "Health care providers" means those defined in Minnesota Statutes, section 176.011, subdivision 24.

9. The prohibitions of 6., 7., and 8. shall not be construed to prevent married couples or family members from engaging simultaneously in rehabilitation or health care.

RS 19. Rehabilitation services and fees.

A. Fee monitoring.

1. Rehabilitation services has the responsibility and jurisdiction under Minnesota Statutes, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to rule RS 13.

2. The employer/insurer has the primary responsibility for monitoring and paying the cost of necessary rehabilitation services provided. Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.

3. Rehabilitation services shall conduct periodic audits of costs and services. The employer/insurer and the rehabilitation provider shall provide rehabilitation services

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

with itemized services and costs upon request. Rehabilitation services must contact the parties to discuss costs and services deemed questionable by rehabilitation services or one of the parties. Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.

B. Reasonable and necessary services. A qualified rehabilitation consultant or vendor shall bill for only those necessary and reasonable services which are rendered in accordance with rehabilitation services rules and policies and procedures during completion of a plan. Reasonable and necessary services and fees shall be determined by the commissioner. The commissioner's review must include all the following factors, but may include other factors if enumerated in his eventual determination. These factors are:

1. The employee's unique disabilities and assets in relation to the goals, objectives, and timetable of the rehabilitation plan;

2. The type of rehabilitation services provided and the actual amount of time and expense incurred in providing the service;

3. The rehabilitation providers' fee schedules on file with rehabilitation services and other fee schedules of providers on file with rehabilitation services;

4. An evaluation of whether services provided were unnecessary, duplicated other services, available at no charge to public, or were excessively sophisticated for the actual needs of the employee;

5. An evaluation of whether services rendered were expressly authorized by either the employer, insurer, or rehabilitation services;

6. An evaluation of whether Minnesota Statutes, chapter 176, and rehabilitation services' rules RS 1.-19. have been followed by the provider.

No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

C. Reporting requirements. All qualified rehabilitation consultants must provide rehabilitation services with certain information regarding an employee's case for purposes of rehabilitation services' monitoring of services and overall record keeping requirements.

1. The qualified rehabilitation consultant shall provide rehabilitation services with an initial evaluation narrative report concerning the employee which will include the following information in summary fashion:

a. medical status;

b. vocational history;

c. educational history;

d. social/economic status;

e. transferable skills;

f. employment barriers; and

g. recommendations;

2. The qualified rehabilitation consultant shall provide narrative progress reports, if needed, of up to one page;

3. The qualified rehabilitation consultant shall send attached to progress reports required by 2. completed copies of all vendor reports, medical, psychological, and vocational reports regarding an employee's case.

4. The qualified rehabilitation consultant shall also forward to rehabilitation services copies of completed reports prepared for other parties by him or her.

The requesting party shall pay for all costs incurred by a rehabilitation provider in creating a report not required by rehabilitation services.

D. Estimated goal dates and costs. When developing the rehabilitation plan and progress reports, the qualified rehabilitation consultant must make a professional judgment regarding any projected goal date and estimated costs. This

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

shall include projected goal date and estimated costs submitted by any vendor. When the date or cost has been exceeded, the qualified rehabilitation consultant and any rehabilitation vendor must submit to rehabilitation services an itemized billing and no more than a one page rationale regarding continued provision of rehabilitation services. The rehabilitation provider is to submit the rationale to the employer/insurer. If the parties are unable to agree, any party may request a review by rehabilitation services.

E. Invoices. Invoices are to be attached to all plan completion forms.

F. Consent of employer/insurer; exceptions. A qualified rehabilitation consultant or vendor shall obtain the express consent of the employer/insurer before providing the following services, however, the presence or the absence of express consent shall not preclude rehabilitation services from determining the reasonable value or necessity of these services:

1. costs for physician visits, phone calls to physicians, accompanying employee to appointments or examinations not directed to plan objectives;

2. follow-up activity with employers during job placement services to verify employee applications not arranged by qualified rehabilitation consultant or vendor;

3. phone calls to rehabilitation services regarding general procedures on questions or rehabilitation direction;

4. unanswered attempted phone calls;

5. time spent for report writing beyond items indicated in the reporting guidelines of C.;

6. qualified rehabilitation consultant billings during vendor activity periods beyond required reporting or specific problem solving activity;

7. time for attendance of a supervisor or observer at administrative conferences when the qualified rehabilitation consultant is providing services to the employee;

8. any services rendered prior to the acceptance of eligibility for rehabilitation by an insurer or determination or

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

eligibility by rehabilitation services;

9. time spent reviewing the file and initial contact to establish rapport with interested parties by a qualified rehabilitation consultant or vendor when a case has been transferred from another qualified rehabilitation consultant or vendor within the same rehabilitation firm;

10. time spent by a supervisor, another qualified rehabilitation consultant, or support staff in addition to the qualified rehabilitation consultant of record;

11. job placement activities beyond 90 days from the start of the job placement effort without a plan review;

12. wait time for cold call or early arrival for a prearranged appointment;

13. time spent by a qualified rehabilitation consultant selected by the employee before approval of a qualified rehabilitation consultant change has been issued by rehabilitation services;

14. services that are not needed or repeat services already done.

15. charges beyond the hourly fee for testimony at a judicial hearing when the qualified rehabilitation consultant or vendor has provided rehabilitation service under the plan;

16. travel costs beyond those needed to develop or complete a plan; or

17. any disputed services and fees in regard to rehabilitation provided.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD376

Agency: Department of Labor and Industry

Division: Rehabilitation Services

Agency Contact: Jay Benanav

Rule Numbers: RS 1; 15; 17; 18; 19

Title: Proposed Rules Governing Rehabilitation Services

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
RS 18 E.1.	The Purpose of Rehabilitation Services and The Rights and Responsibilities of the Injured Worker form; The Rehabilitation Feedback form

Duplication of Statutory Language: None

Rule Number:	Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

John C. Fuller
Assistant Deputy Revisor
Phone: 296-0955
Date: July 22, 1983

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
444 LAFAYETTE ROAD
SAINT PAUL 55101

TELEPHONE:
(612) 296-6107

IN REPLY REFER TO

PHONE

In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry, Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Peter Erickson on the 23rd day of September, 1983, at 8:30 A.M., in the St. Paul Technical Vocational Institute Auditorium, St. Paul, Minnesota after proper notice required by Minnesota Statutes 14.13 was served upon all persons, associations, and other interested groups registered with the State Department of Labor and Industry for that purpose.

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

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors are adopted this 5th day of December, 1983, pursuant to authority vested in me by Minnesota Statutes section 176.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe
Commissioner of Labor and Industry

Make Our State
MINNESOTA
The Safest State

80S

AN EQUAL OPPORTUNITY EMPLOYER

RECEIVED
DEC 3 1982
ADMINISTRATIVE HEARINGS

Minnesota State Retirement System
Regular Meeting, Board of Directors

Notice of Meeting

The regular bi-monthly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, October 15, 1982, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Labor and Industry
Workers' Compensation Rehabilitation Services

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

Notice is hereby given that the Workers' Compensation Rehabilitation Services, Department of Labor and Industry, is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing qualified rehabilitation consultant qualifications, standards for performance, services and fees, and revocation procedures for qualified rehabilitation consultants/rehabilitation vendors. The promulgation of these rules is authorized by Minnesota Statutes § 176.102, subds. 10 and 12, which requires the agency to promulgate rules relating to qualified rehabilitation consultants and any other rules necessary to implement Minn. Stat. § 176.102.

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

Gladys Westberg, Director
Rehabilitation Services
Workers' Compensation Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours or over the telephone at (612) 297-2684 and in person at the above address.

All statements of information and comments shall be accepted until November 1, 1982. Any written material received by Workers' Compensation Rehabilitation Services shall become part of the record in the event that the Rules are promulgated.

Russell B. Swanson,
Commissioner of Labor and Industry

State Designer Selection Board

Notice of Meeting

The State Designer Selection Board will meet on Monday, October 11, 1982 and Monday, October 18, 1982 at 10:00 a.m. in Room G-10, State Administration Building, St Paul.

LI-84-003-PE
L+I Exhibit #3

RECEIVED
AUG 4 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the State Workers' Compensation Rehabilitation Services Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors.

ORDER FOR HEARING

IT IS ORDERED this 4th day of August 1983, that a public hearing on the proposed rules captioned above be held in the Auditorium at St. Paul Technical Vocational Institute, 235 Marshall Avenue, St. Paul, Minnesota 55102 on September 23, 1983, commencing at 8:30 A.M. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all persons who have registered their names with the State Department of Labor and Industry for that purpose and be published in the State Register.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe
COMMISSIONER OF LABOR AND INDUSTRY

L+I Exhibit #4

RECEIVED
AUG 4 1983
ADMINISTRATIVE HEARINGS

DEPARTMENT OF LABOR AND INDUSTRY

WORKERS' COMPENSATION REHABILITATION SERVICES

Proposed Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors.

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minnesota Statutes, section 15.0412, subdivision 4, in the Auditorium at St. Paul Technical Vocational Institute, 235 Marshall Avenue, St. Paul, Minnesota on September 23, 1983, commencing at 8:30 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, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner of Labor and Industry has been provided the statutory authority to promulgate rules governing qualified rehabilitation consultant qualifications, standards for performance, services and fees, and revocation procedures for qualified rehabilitation consultants/rehabilitation vendors. The promulgation of these rules is authorized by Minnesota Statutes 176.102, subds. 2, 10 and 176.83, which require the agency to promulgate rules relating to qualified rehabilitation consultants and rehabilitation vendors any other rules necessary to implement Minn. Stat. 176.102.

A copy of the rules is attached. One free copy of this Notice and the proposed rules may be obtained by contacting:

Gladys Westberg, Director
Rehabilitation Services
Workers' Compensation Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: (612) 297-2684

Additional copies will also be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing a statement of need and reasonableness will be available for review at the address given above of the Department of Labor and Industry 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 the reasonableness of the proposed rule(s). Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Labor and Industry strongly urges those who are potentially affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules. Statements may be made orally and written material may be submitted at the hearing. The Department of Labor and Industry hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to _____, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The rule hearing procedure is governed by Minnesota Statutes, sections 15,0411 to 15.0417 and section 15.052: as well as by 9 MCAR sections 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Labor and Industry may not take any final action on the rules for a period of five (5) 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 Department of Labor and Industry. 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 department (in the case of the department's submission or resubmission to the Attorney General). It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statutes, sections 15.0412, subdivision 7.

Please be advised that Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes section 10A.01, subdivision 11 as any individual:

1. 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 that $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attemping to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

2. Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attemping to influence legislative or administrative action by communicating or urging others to communicate with the public officials.

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

Dated this 4th day of August 1983

Steve Keefe
Commissioner

L+I Exhibit #6

RECEIVED
AUG 30 1983
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Christine Lee, being first duly sworn deposes and says:

That on the 22nd day of August, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Labor and Industry for the purpose of receiving notice of the proposed adoption of rules by this office of Rehabilitation Services.

Christine Lee

Subscribed and sworn to before me
this 22 day of August, 1983.

Rosemary L. LaRue

ROSEMARY L. LaRUE
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov. 11, 1984

L+I Exhibit # 5

RECEIVED
AUG 30 1983
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

---

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 14.14 that their names be placed on file with and maintained by the State Department of Labor and Industry for the purpose of receiving notice of the proposed adoption of rules by this Rehabilitation Services is accurate and complete as of 12:00 noon, this 22nd day of August, 19 83.

Gladys Westberg

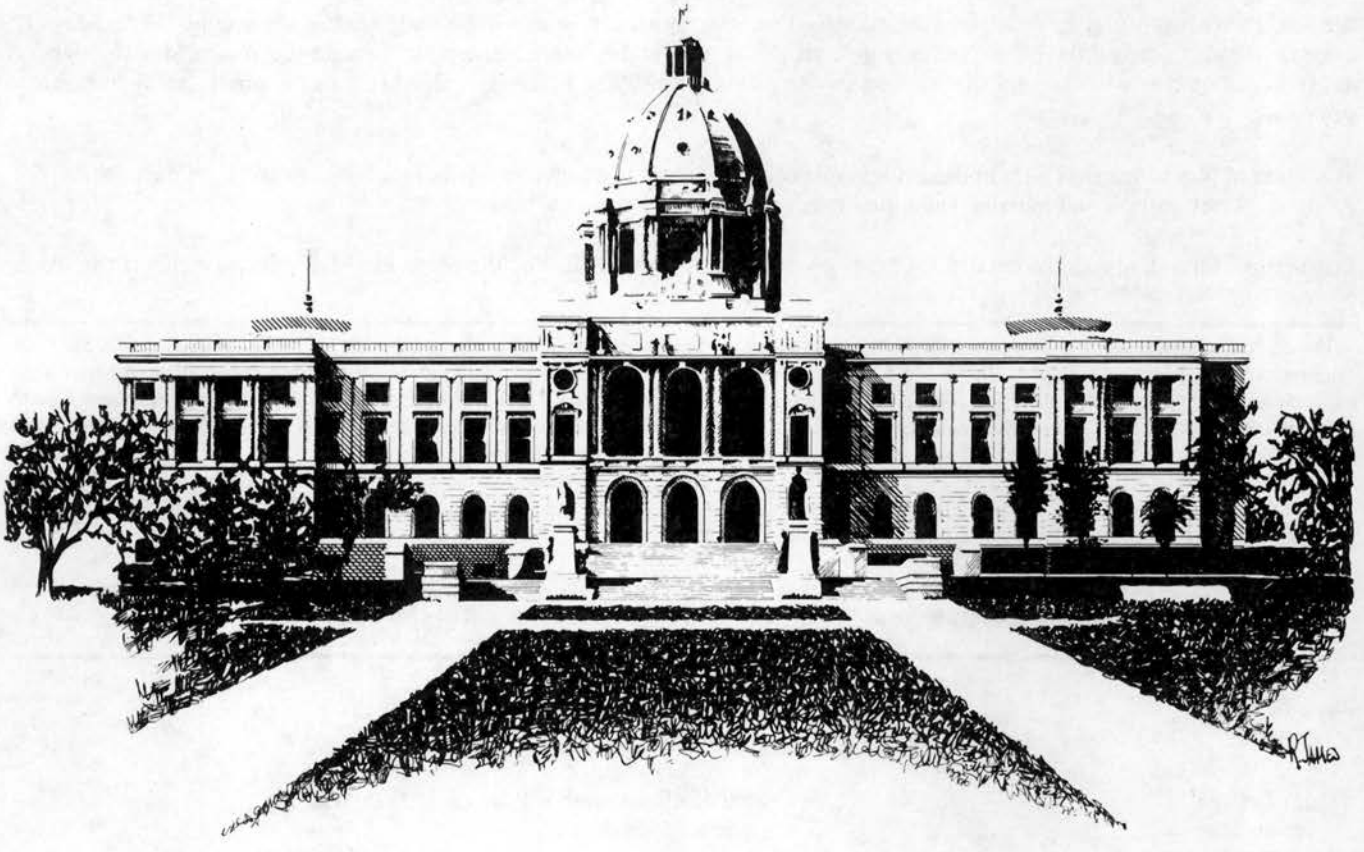
Gladys Westberg,
Director of Rehabilitation Services

L+I Exhibit #7

RECEIVED
AUG 30 1983
ADMINISTRATIVE
HEARINGS

STATE REGISTER

STATE OF MINNESOTA



VOLUME 8, NUMBER 8

August 22, 1983

Pages 253-316

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 8		
9	Monday Aug 15	Monday Aug 22	Monday Aug 29
10	Monday Aug 22	Monday Aug 29	Monday Sept 5
11	Monday Aug 29	Monday Sept 5	Monday Sept 12
12	Monday Sept 5	Monday Sept 12	Monday Sept 19

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

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

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

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

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

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

Rudy Perpich
Governor

Sandra J. Hale
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Carol Anderson Porter
Editor

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

Cover graphic: *Minnesota State Capitol*, ink drawing by Ric James.

CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Inclusive listing for Issues 1-8. 256

PROPOSED RULES

Agriculture Department
Agronomy Services Division
Proposed Temporary Rule Governing Fees for Agricultural Seed Registration and Testing [notice of intent to adopt temporary rules] 257

Commerce Department
Proposed Temporary Rules Governing Auto Insurance Nonrenewals [notice of intent to adopt temporary rules] 260

Labor and Industry Department
Workers' Compensation Rehabilitation Services
Proposed Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors [notice of hearing] 264

Public Welfare Department
Proposed Amendments to Existing Rules of the Minnesota Merit System Governing the Compensation Plan [notice of hearing] 273

Health Department
Proposed Amendments to Existing Rules of the Minnesota Merit System Governing the Compensation Plan [notice of hearing] 284

Public Safety Department
Proposed Amendments to Existing Rules of the Minnesota Merit System Governing the Compensation Plan 289

Revenue Department
Income Tax Division
Proposed Repeal of an Income Tax Rule Relating to Individual Housing Accounts [notice of intent to repeal a rule without a public hearing] 274

ADOPTED RULES

Public Employment Relations Board
Adopted Rules Governing Issues and Appeals, Arbitration of Terms and Conditions of Employment, Arbitration of Grievances, and Independent Review 293

TAX COURT

State of Minnesota, County of Dakota. Tax Court, Regular Division. John M. Sawicke, Appellant, v. The Commissioner of Revenue, Appellee. Findings of Fact, Conclusions of Law and Order for Judgment. Order Dated 8/1/83 294

SUPREME COURT

Decisions Filed Friday, August 12, 1983.
CX-82-771 State of Minnesota v. Gary L. Bland, Appellant. Hennepin County 299
C6-82-1058 State of Colorado, on behalf of Jean E. McDonnell, petitioners, Appellants v. James T. McCutcheon. Washington County 300
C0-82-679, C1-82-867 State of Minnesota v. James Mallory, Appellant (C0-82-679) and Keith Mayes, Appellant, (C1-82-867). Hennepin County 300
C7-82-1523 Agri Credit Corporation v. Raleigh Liedman, Appellant. Kandiyohi County 300
C2-82-893 State of Minnesota v. Gary L. Williams, Appellant. Hennepin County 300

STATE CONTRACTS

Administration Department
Rental of Office Space 300

State Designer Selection Board
Architectural and Engineering Services. 301

Energy and Economic Development Department
Division of Community Development
Juvenile Justice Grants Available 303

City of Hermantown
Preliminary Engineering Services 303

Metropolitan Council
Developmental Disabilities Program
Notice of Request for Proposals for Developmental Disabilities Resource Developer/Vocational Trainer 304

Minnesota Historical Society
Historic Preservation Survey 304

Public Safety Department
Office of Public Information
Notice of Availability of Television Public Service Filming Contract 305

Transportation Department
Technical Services Division
Preliminary Engineering—Environmental Study and Detail Design. 305

Transportation Department
Operations Division
Supportive Services 305

OFFICIAL NOTICES

Administration Department
Procurement Division
Outside Opinion Sought on Proposed Rules Governing Administration of the Buy Minnesota Legislation. 306

Commerce Department
Division of Financial Institutions
Outside Opinion Sought on Amendments to Rules Governing the Operation of Credit Unions 306

Economic Security Department
Outside Opinion Sought on Proposed Rules Governing the Minnesota Energy Assistance Program 307

Ethical Practices Board
Advisory Opinion #84 Re: Hennepin County Disclosure 307

State Board of Medical Examiners
Outside Opinion Sought on Proposed Rules Regulating Advertising by Physicians and Osteopaths 308

Metropolitan Council
1984 Work Program and Budget [notice of public hearing] 308

Public Utilities Commission
Outside Opinion Sought on Amendments to Existing Rules Governing Cogeneration and Small Power Production 309

Public Utilities Commission
Outside Opinion Sought on Amendments to Existing Rules Governing Automatic Adjustment Charges 310

Errata 313

NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

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

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

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

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

MCAR AMENDMENTS AND ADDITIONS

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR § 1.0172 (proposed) 257
3 MCAR § 1.0325 (adopted) 28
3 MCAR § 1.0326 (adopted) 29
3 MCAR § 1.0327 (adopted) 30
3 MCAR § 1.0328 (adopted) 30

Part 2 Board of Animal Health

3 MCAR § 2.001, LSB 43, 3 MCAR § 2.044 (proposed) 77

TITLE 4 COMMERCE DEPARTMENT

Part 1 Commerce Department

4 MCAR §§ 1.9081 Temp-1.9089 Temp, 1.90891 Temp, 1.90892 Temp (proposed) 260

Part 2 Energy and Economic Development

4 MCAR §§ 2.501-2.508 (proposed repeal) 149

Part 3 Public Utilities Commission

4 MCAR §§ 3.0317-3.0322 (proposed) 82
4 MCAR §§ 3.0450 [Temp]-3.0454 [Temp], 3.0456 [Temp], 3.0460 [Temp]-3.0463 [Temp] (proposed) 103

Part 11 Electricity Board

4 MCAR §§ 11.033-11.038 (proposed) 137

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR § 1.0807 (proposed temporary) 144

Part 2 Higher Education Coordinating Board

5 MCAR §§ 2.0604, 2.0606, 2.0100, 2.2101-2.2106, 2.2201-2.2206, 2.2301-2.2307, 2.2401-2.2405, 2.2501-2.2503, 2.2601-2.2605, 2.2701-2.2705, 2.2801-2.2811 (adopted) 196
5 MCAR §§ 2.0101-2.0108, 2.0201-2.0209, 2.0801-2.0806, 2.0901-2.0918, 2.0990, 2.1001-2.1008 (repealed) 196

Part 3 Board of Teaching

5 MCAR §§ 3.007, 3.065, 3.0831, 3.088, 3.089 (adopted) 244

TITLE 6 ENVIRONMENT

Part 4 Pollution Control Agency

6 MCAR §§ 4.3003, 4.3005 M., 4.3010, 4.3013 (adopted) 243
6 MCAR § 4.8024 (proposed) 101

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR § 1.059 (proposed) 225
7 MCAR §§ 1.2395, 1.314 (proposed) 284

TITLE 8 LABOR

Part 1 Labor and Industry Department

RS 1, RS 14, RS 15, RS 17-RS 19 (proposed) 264

Part 3 Public Employment Relations Board

8 MCAR §§ 3.001, 3.003-3.006, 3.0061, 3.007-3.008, 3.010-

3.019, 3.030, 3.032, 3.034-3.038, 3.040-3.041, 3.050, 3.052-3.054, 3.0541, 3.055, 3.060, 3.062-3.063, 3.0641, 3.0651, 3.0661, 3.067-3.078 (adopted) 293
8 MCAR §§ 3.033, 3.039, 3.064-3.065 (repealed) 293

TITLE 11 PUBLIC SAFETY

Part 1 Department of Public Safety
11 MCAR §§ 1.2094, 1.2140 (proposed) 289
11 MCAR §§ 1.3060-1.3066 (adopted) 243

Part 2 Corrections Department
11 MCAR §§ 2.001-2.012 (proposed) 57

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department
12 MCAR § 2.027 (adopted) 161
12 MCAR §§ 2.05001 [Temp]-2.5016 [Temp] (proposed) 6
12 MCAR §§ 2.05401-2.05403 (proposed temporary) 150
12 MCAR § 2.164 (proposed temporary) 160
12 MCAR § 2.204 (proposed) 189
12 MCAR §§ 2.494, 2.840 (proposed) 273

Part 3 House Finance Agency
12 MCAR §§ 3.002 [Temp], 3.055 [Temp]-3.057 [Temp] (proposed) 5
12 MCAR §§ 3.002 [Temp], 3.133 [Temp], 3.134 [Temp] (adopted) 116
12 MCAR §§ 3.058 [Temp]-3.061 [Temp] (proposed) 109
12 MCAR §§ 3.160 [Temp]-3.165 [Temp] (proposed) 111

TITLE 13 TAXATION

Part 1 Revenue Department
13 MCAR § 1.6016 (proposed repeal) 292
13 MCAR §§ 1.6004, 1.6501-1.6503; and 2019 (adopted) 114

TITLE 14 TRANSPORTATION

Part 1 Transportation Department
14 MCAR §§ 1.7001, 1.7003, 1.7005, 1.7007-1.7009 (adopted) .. 30

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture
Agronomy Services Division

Proposed Temporary Rule Governing Fees for Agricultural Seed Registration and Testing

Notice of Intent to Adopt Temporary Rules

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

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.

Persons interested in this temporary rule shall have 20 days from the date the rule is published in the *State Register* to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the department.

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

Authority to adopt the rule is contained in Laws of Minnesota 1983, chapter 293, section 44, subdivision 11. The commissioner is authorized by this section to adopt temporary rules for enforcement of the Minnesota Seed Law, including the establishment and collection of fees. The proposed temporary rule sets the fees for sampling export seed, sets application and other fees for seed permit holders, states reporting requirements for seed permit holders, sets registration fees for hybrid seed corn varieties, and sets fees for laboratory service and testing of agricultural seeds.

Upon adoption of the temporary rule, the proposed rule, this notice, all written comments received, and the temporary rule as adopted will be delivered to the Attorney General for review as to form and legality. As required by the Administrative Procedures Act, this temporary rule will beeffectivefor not more than 180 days after its adoption, and may be continued in effect for up to an additional 180 days.

One free copy of this notice and the proposed temporary rule may be obtained by contacting Mr. Heil. Persons who wish to receive a copy of the temporary rule as adopted should also request it from Mr. Heil.

Jim Nichols
Commissioner of Agriculture

Temporary Rule as Proposed (All new material)

3 MCAR § 1.0172 [Temporary] Charges for testing and identifying seed.

A. Definitions. As used in this rule, "commissioner" means the commissioner of agriculture or the commissioner's designee, "person" has the meaning given in Laws of Minnesota 1983, chapter 293, section 40, subdivision 18, and "initial labeler" has the meaning given in Laws of Minnesota 1983, chapter 293, section 40, subdivision 12, except that it does not include persons exempted from having seed fee permits by Laws of Minnesota 1983, chapter 293, section 48, subdivision 4.

B. Sampling export seed. In accordance with Laws of Minnesota 1983, chapter 293, section 44, subdivision 13, the commissioner will, if requested, sample seed destined for export to other countries. The fee for sampling export seed is $20 per hour per inspector. In addition, the person requesting the sampling service shall pay the actual cost of mileage, meals, lodging, mailing or copying, any materials used in furnishing the service, and any other expense reasonably related to and necessary for providing the service.

C. Seed fee permits. An initial labeler who wishes to sell seed in Minnesota must comply with the provisions of Laws of Minnesota 1983, chapter 293, section 48, subdivisions 1 and 2, and the procedures set in 1.-4.

1. Each initial labeler who wishes to label seed for sale in Minnesota must apply to the commissioner to obtain a permit. The application must contain the name and address of the applicant, the application date, the desired effective date for the permit, and the name and title of the applicant's contact person. The application must be accompanied by an application fee of $10. Initial labelers holding seed fee permits on the effective date of this rule need not apply for a new permit or pay the application fee.

2. All seed permit holders must file quarterly reports with the commissioner, even if no seed was sold during the reporting period. Each quarterly report must be submitted within 30 days of the end of the reporting period along with a $5 filing fee. The reporting periods are January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31 of each year.

3. The holder of a seed fee permit must pay fees on all seed covered by Laws of Minnesota 1983, chapter 293, sections 39 to 51 and sold during the reporting period.

a. For agricultural seed sold in containers up to 160 pounds net weight, the fees per container are as follows:

(1) Less than 15-pound container, 5 cents each;

(2) 15- to 30-pound container, 7 cents each;

(3) 30- to 60-pound container, 8 cents each;

(4) 60- to 100-pound container, 9 cents each; and

(5) 100- to 160-pound container, 10 cents each.

b. For agricultural seed sold in bulk or in containers larger than 160 pounds net weight, the fees are as follows:

(1) Oats, field peas, 5 cents per cwt.;

(2) Wheat, barley, field beans, 6 cents per cwt.;

(3) Rye, soybeans, buckwheat, 7 cents per cwt.;

(4) Flax, vegetables grown for processing, 8 cents per cwt.;

(5) Corn, forage grasses, millets, 9 cents per cwt.;

(6) Sorghum, sunflowers, legumes, 10 cents per cwt.;

(7) All other agricultural seeds, 10 cents per cwt.; and

(8) Lawn and turf grass seeds, 1 cent per lb.

c. For vegetable and flower seeds packed for use by home gardeners in small containers or in bulk, the fees are as follows:

(1) Vegetable, each pound, 10 cents; and

(2) Flower, each pound, 15 cents.

4. If a seed fee permit holder fails to submit a quarterly report and pay the seed fee within 30 days after the end of each reporting period, the commissioner shall assess a penalty of $10 or eight percent of the fee due, whichever is greater, but no more than $100 for each late quarterly report. A $10 penalty will be charged when the quarterly report is late, even if no fee is due for the reporting period. Seed fee permits may be revoked for failure to comply with the applicable provisions of this rule or the Minnesota Seed Law.

D. Hybrid seed corn variety registration fee. In accordance with Laws of Minnesota 1983, chapter 293, section 49, subdivision 2, the annual fee for the registration of each hybrid seed corn variety is $27.50, and must be paid at the time of registration.

E. Service testing and identification. The fees in 1.-4. for purity, germination, identification, or other related tests of seeds or plants for farmers, dealers, and others are established pursuant to Laws of Minnesota 1983, chapter 293, section 44, subdivision 12.

1. General crops, including corn, cereals, soybeans, sorghum, millet, sunflowers, clovers, alfalfa, ryegrass, timothy, flax, rape, and other similar seeds:

Purity	Germination	Both	Noxious Weed Seed Only	Tetrazolium
$ 8	$ 5	$11	$ 4	$10

2. Grasses, including bromes, fescues, orchardgrass, reed canary wheat grasses, bluegrasses, bentgrasses, redtop, green needle grass, weeping lovegrass, sandlove, sanddrop seed, and other similar seeds:

Purity	Germination	Both	Noxious Weed Seed Only	Tetrazolium
$12	$ 7	$17	$ 6	$12

3. Chaffy range grasses, including big bluestem, Indiangrass, side oats grama, gramagrass, little bluestem, meadow foxtail, and similar seeds:

Purity	Germination	Both	Noxious Weed Seed Only	Tetrazolium
$20	$10	$28	$10	$18

4. Mixtures: A—Full price of highest priced species plus one-half the price of each additional species. B—One-half the price of the purity test on the highest priced species in the mixture.

Purity	Germination	Both	Noxious Weed Seed Only	Tetrazolium
A	A	Not Applicable	B	A

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.

5. A fee of $12 per hour will be charged for tests which are specially requested but not included in E., or which require excess time due to abnormal sample conditions, such as unusual amounts of dirt or foreign material.

6. An additional fee of $2 per sample will be charged for any sample for which special handling is requested, such as samples marked "RUSH."

7. An additional fee of $2 will be charged for each sample received during the period of March 15 through June 30.

8. Fees are payable within 30 days of the invoice date by the person requesting a service. Late payment will result in an eight percent monthly service charge assessed against the unpaid balance.

Department of Commerce

Proposed Temporary Rules Governing Auto Insurance Nonrenewals

Notice of Intent to Adopt Temporary Rules

Notice is hereby given that the Department of Commerce is proposing to adopt temporary rules to govern auto insurance nonrenewals as authorized by Ch. 203, sec. 2 of the Session Laws of 1983 (Minn. Stat. § 65B.17, subd. 2). The proposed temporary rules follow this notice.

All interested parties are hereby afforded the opportunity to submit data and views on the proposed temporary rules for 20 days immediately following publication of this material in the *State Register*. Comments should be submitted in writing to:

Dale L. McDonnell
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101

The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the department.

After the 20 day comment period, the proposed temporary rules with modifications, if any, will be sent to the Office of the Attorney General for final approval as to form and legality. The temporary rules shall take effect immediately upon the Attorney General's approval.

The temporary rules shall remain in effect until permanent rules are adopted or for 180 days. The temporary rules may also be extended for an additional 180 days.

August 8, 1983

Reynaud L. Harp
Deputy Commissioner of Commerce

Temporary Rules as Proposed (all new material)

4 MCAR § 1.9081 [Temporary] Scope of Authority.

Rules 4 MCAR §§ 1.9081-1.90892 [Temporary] apply to all companies writing policies of automobile insurance. They are adopted pursuant to Minnesota Statutes, section 65B.17, subdivision 2.

4 MCAR § 1.9082 [Temporary] Purpose.

Rules 4 MCAR §§ 1.9081-1.90892 [Temporary] are designed to limit the reasons a policy of automobile insurance may not be renewed.

4 MCAR § 1.9083 [Temporary] Definitions.

A. Applicability. For the purposes of 4 MCAR §§ 1.9081-1.90892 [Temporary], the terms defined in this rule have the meanings given them.

B. Chargeable accident. "Chargeable accident" means an accident involvement in which the insurer nonrenewing the policy makes a payment under bodily injury, property damage, or collision coverages except under the following conditions:

1. In a collision loss, where the insurer recovers 80 percent or more of the insurers loss through subrogation.

2. The automobile was damaged through being struck while lawfully parked. An automobile rolling from a parked position would not be considered lawfully parked if the rolling caused the accident, that is, the rolling car struck another vehicle.

3. The insured or other driver of the car has been paid by the other party, or has a judgment against the other party in the accident.

4. The accident was one in which the damage was caused by the vehicle being rear-ended by another vehicle, unless the driver of the struck vehicle has been convicted of a moving traffic violation in conjunction with the accident.

5. The driver of the other vehicle in the accident has been convicted of a moving violation in conjunction with the accident, and the insured driver has not been convicted of a moving violation in conjunction with the accident.

6. The insured automobile was damaged by contact with a "hit-and-run" vehicle, if this is so reported to the police, highway patrol, or sheriff within 24 hours after discovery.

7. Any accident for which payment is made under the comprehensive portion of the physical damage coverage of a policy.

C. Commercial vehicle. "Commercial vehicle" is as defined in Minnesota Statutes, section 65B.43, subdivision 12.

D. Emergency vehicle. "Emergency vehicle" means an automobile used in response to an emergency if the operator is responding to a call of duty as a paid or volunteer member of any police or fire department, first aid squad, or any law enforcement agency.

E. Experience period. "Experience period" means three years from the date of an accident to the renewal date of the policy and in the case of a moving traffic violation, three years from the date of occurrence to the renewal date of the policy.

F. Hit and run vehicle. "Hit and run vehicle" means a vehicle that leaves the scene of an accident in violation of Minnesota Statutes, section 169.09, subdivisions 1, 2, 4, and 5, or the comparable provisions of the laws of another jurisdiction where the accident occurred.

G. Multi-line contract. "Multi-line contract" means an insurance contract which insures more than one line of insurance under one contract, such as homeowners and automobile coverages within one contract.

H. Nonrenewal. "Nonrenewal" includes any nonrenewal notice sent to a named insured informing the named insured that the insurer is terminating or intends to terminate a policy as of a certain date. In order to be valid, the notice must comply with all other applicable laws and rules, including Minnesota Statutes, section 65B.17, and 4 MCAR § 1.9087 [Temporary].

Nonrenewal also includes:

1. any reduction in the limits of liability of coverage, except a termination or modification of towing coverage;

2. an increase of a physical damage deductible unless all the existing policies and those policies to be accepted as new business will have the same higher deductibles applied; and

3. the transfer of a named insured from one rating plan to another within the same company, or the transfer of a named insured from one company to another within a group of insurance companies, if the transfer results in a higher premium. This does not apply to a surcharge on an existing policy.

I. Points. "Points" means the grading system by which each chargeable accident and violation is assigned a certain number of points to determine if a policy is subject to nonrenewal.

J. Policy. "Policy" means a policy or a policy of automobile insurance as defined in Minnesota Statutes, section 65.14, subdivision 2.

K. Private passenger vehicle. "Private passenger vehicle" is as defined in Minnesota Statutes, section 65B.001, subdivision 3.

L. Violations. "Violations" means all moving traffic violations that are recorded by the Department of Public Safety on an operator's motor vehicle record, and violations reported by a similar authority in another state, or reported by the insured, except for equipment violations.

4 MCAR § 1.9084 [Temporary] Reasons for nonrenewal.

The grounds for nonrenewal of a policy are limited to one or more of the following reasons:

A. the reasons stated in Minnesota Statutes, section 65B.15, subdivision 1;

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.

B. an insured equals or exceeds the relevant number of points specified in 4 MCAR § 1.9086 [Temporary];

C. termination of the agency contract, provided that if a named insured is 65 years of age or older, the insurer must reinstate the policy at the written request of the named insured;

D. an insurer ceases to write auto insurance in Minnesota. An insurer writing both commercial vehicle insurance and private passenger auto insurance can cease to write either line and continue to offer coverage in the other line;

E. three or more comprehensive claim payments have been made during the experience period, a deductible of no more than $100 may be applied to the comprehensive coverage of a policy not having a deductible, or either an increase to the next highest deductible level offered by a company or up to $100 may be added to an already existing deductible.

4 MCAR § 1.9085 [Temporary] Schedule of points for a violation or chargeable accident.

The following schedule shows the points assigned to each violation and chargeable accident during the experience period.

A. Four points will be assigned for each of the following:

1. leaving the scene of an accident without stopping to report;

2. a felony involving the use of a motor vehicle, including manslaughter, criminal negligence, or assault originating out of the use of a motor vehicle;

3. theft of, or unlawful taking of, a motor vehicle;

4. any suspension or revocation of an operators' license; and

5. unlawful driving after suspension or revocation of an operators' license.

B. Two and one-half points will be assigned for reckless driving.

C. One and one-half points will be assigned for careless driving.

D. One point will be assigned for:

1. a chargeable accident where total payment under bodily injury, property damage, and collision coverage is over $500; and

2. an open bottle violation.

E. Three-fourths of a point will be assigned for the second and each subsequent violation for speeding during the experience period per individual operator.

F. One-half point will be assigned for:

1. the first violation for speeding during the experience period per individual operator;

2. all other violations;

3. a chargeable accident where total payment under bodily injury, property damage, and collision, coverages, is $500 or less; and

4. allow open bottle violation.

4 MCAR § 1.9086 [Temporary] Points for nonrenewal.

A. Schedule. The following schedule shows the number of points that must be accumulated before a policy can be nonrenewed:

Vehicles insured	Points to nonrenew
1	2
2	3
3	3½
4 or more	4

B. Exceptions.

1. If one operator accumulates three points or more, a policy or policies may be nonrenewed regardless of the number of insured vehicles in the household. If at the time the nonrenewal was sent, a nonspouse member owns an automobile and a policy of his or her own, then that household member's driving record cannot be used for accumulation of points to determine a basis for nonrenewal of policies of other members of the household.

2. Accidents or violations occurring while operating a commercial vehicle or an emergency vehicle cannot be used to accumulate points for nonrenewing a private passenger vehicle policy, except for violations in the four-point category.

3. Accidents or violations occurring while operating a private passenger vehicle cannot be used to accumulate points for nonrenewing a commercial vehicle policy, except for violations in the four-point category.

4. If a violation and a chargeable accident arise out of the same occurrence, points are charged only to the event which carries the highest point assignment.

4 MCAR § 1.9087 [Temporary] Nonrenewal notices.

A nonrenewal notice must be on a form approved by the Department of Commerce and it must contain on the front of the notice specific reasons for the nonrenewal and the information required by Minnesota Statutes, section 65B.19 regarding the right of complaint and the availability of the Minnesota Automobile Insurance Plan. The specific reason given for the nonrenewal must include the following information:

1. In the case of violations:
   a. the name of the driver;
   b. the type of violation;
   c. the date of the violation; and
   d. the point value of each violation.
2. In the case of accidents:
   a. the name of the driver;
   b. whether the payment is in excess of or under $500;
   c. the date of the accident; and
   d. the point value of each accident.

The printing of these items on the back of the notice or on a separate sheet will not comply with this rule.

4 MCAR § 1.9088 [Temporary] Record keeping.

Each insurance company shall keep a register of all cancellations, as defined in Minnesota Statutes, section 65B.15, and nonrenewals, as defined in Minnesota Statutes, section 65B.17 and 4 MCAR § 1.9083 H. [Temporary]. This register must be available to the commissioner of commerce, or his designee, at any time.

4 MCAR § 1.9089 [Temporary] Automatic coverage on newly acquired and replacement vehicles.

Rules 4 MCAR §§ 1.9081-1.90892 [Temporary] also apply to newly acquired vehicles and replacement vehicles which qualify for the automatic coverage provisions of a policy.

4 MCAR § 1.90891 [Temporary] Nonrenewal of multi-line contracts.

Nothing in 4 MCAR §§ 1.9081-1.90892 [Temporary] prohibits an insurance company from nonrenewing a multi-line insurance contract. However, if these rules prevent nonrenewal of the automobile insurance portion of the contract, then the insurance company shall issue to the named insured a policy of automobile insurance providing coverage as included in the multi-line contract.

4 MCAR § 1.90892 [Temporary] Penalties.

A. Generally. Failure to comply with 4 MCAR §§ 1.9081-1.90892 subjects the insurers to the following penalties during each calendar year period:

1. first violation, $100;
2. second violation, $300; and
3. third and subsequent violation, $500.

Monetary penalties may be waived upon a showing that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the insurer at the time of the sending of the nonrenewal notice.

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.

B. Disapproval by commissioner. Any nonrenewal of a policy in violation of 4 MCAR §§ 1.9081-1.90892 [Temporary] will be disapproved by the commissioner of commerce pursuant to Minnesota Statutes, section 65B.21.

C. Additional penalties. Nothing contained in this rule prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

D. Application and effective date. Monetary penalties become effective for any nonrenewal in violation of 4 MCAR §§ 1.9081-1.90892 [Temporary] sent on or after January 1, 1984.

Department of Labor and Industry Workers' Compensation Rehabilitation Services

Proposed Rules Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minnesota Statutes, section 14.14, subdivision 1, in the Auditorium at St. Paul Technical Vocational Institute, 235 Marshall Avenue, St. Paul, Minnesota on September 23, 1983, commencing at 8:30 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, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner of Labor and Industry has been provided the statutory authority to promulgate rules governing qualified rehabilitation consultant qualifications, standards for performance, services and fees, and revocation procedures for qualified rehabilitation consultants/rehabilitation vendors. The promulgation of these rules is authorized by Minnesota Statutes §§ 176.102, subds. 2, 10; and § 176.83, which require the agency to promulgate rules relating to qualified rehabilitation consultants and rehabilitation vendors any other rules necessary to implement Minn. Stat. § 176.102.

A copy of the rules is attached. One free copy of this notice and the proposed rules may be obtained by contacting:

Gladys Westberg, Director
Rehabilitation Services
Workers' Compensation Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone: (612) 297-2684

Additional copies will also be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing a statement of need and reasonableness will be available for review at the address given above of the Department of Labor and Industry 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 the reasonableness of the proposed rule(s). Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Labor and Industry strongly urges those who are potentially affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules. Statements may be made orally and written material may be submitted at the hearing. The Department of Labor and Industry hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The rule hearing procedure is governed by Minnesota Statutes § 14.14 as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Labor and Industry may not take any final action on the rules for a period of five (5) 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 Department of Labor and Industry. 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 department (in the case of the department's submission or resubmission to the Attorney General). It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statutes § 14.14.

Please be advised that Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes section 10A.01, subdivision 11 as any individual:

1. 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 $250.00, 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

2. Who spends more than $250.00, 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 the public officials.

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

Dated this 4th day of August 1983

Steve Keefe
Commissioner

Rules as Proposed

RS 1. Definitions. For the purposes of RS 1.~~17.~~ 19., the following terms have the meanings given them.

A.-K. [Unchanged.]

L. "Rehabilitation services" means the division of rehabilitation services of the Department of Labor and Industry.

L. [Reletter as M.]

N. "Rehabilitation provider" means the following four categories of rehabilitation professions: qualified rehabilitation consultants; qualified rehabilitation consultant interns; qualified rehabilitation consultant firms; and registered rehabilitation vendors.

RS 14. Qualifying eligibility criteria for rehabilitation consultant.

The ~~following~~ eligibility criteria and procedures in A.-D. shall be used by the commissioner in determining who is qualified for registration as a qualified rehabilitation consultant.

~~a.~~ A. Educational background. A qualified rehabilitation consultant/affiliated/independent shall possess the following credentials as applicable:

~~i.~~ 1. Holder of a masters or doctorate degree in vocational rehabilitation or related fields of counseling and guidance, psychology, social work, or physical rehabilitation (occupational therapy, physical therapy, nursing) from an accredited institution, plus a current license as appropriate, plus one year of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of ~~work related injuries and diseases~~ injured workers.

~~or~~

~~ii.~~ 2. Holder of a baccalaureate degree in vocational rehabilitation or related fields of counseling and guidance, psychology, social work, or physical rehabilitation (occupational therapy, physical therapy, nursing), from an accredited institution, plus a current license as appropriate, plus two years of experience in vocational rehabilitation or physical rehabilita-

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.

tion. At least one year shall have been spent as a qualified rehabilitation consultant intern in rehabilitation of ~~work related injuries and diseases~~ injured workers.

~~or~~

~~iii. Diploma in nursing from an accredited institution, plus a current Minnesota R.N. license, plus three years of experience in physical rehabilitation or vocational rehabilitation. At least one year shall have been spent in rehabilitation of work-related injuries and diseases.~~

~~or~~

~~iv. Holder of any baccalaureate degree other than listed in ii above from an accredited institution, plus three years of experience in vocational rehabilitation. At least one year shall have been spent in rehabilitation of work-related injuries and diseases.~~

~~or~~

~~v. High school diploma, plus continuing education in and five years experience in vocational rehabilitation, including counseling, evaluation and direct case services. Two of the five years shall have been spent in rehabilitation of work-related injuries and diseases.~~

~~b.~~ B. Rehabilitation consultant intern~~:~~. An individual who meets the minimum educational requirements but does not meet the minimum experience requirements may be registered as a consultant intern. When the intern is registered, the intern's employer shall provide the commissioner with the name of the qualified rehabilitation consultant under whose direct supervision the intern will work. The supervisor shall be considered to be directly responsible for the rehabilitation work on any case. The supervisor shall co-sign all work being done by the intern. So that all parties are aware of the intern's status, he shall be designated as an "intern." The intern may make application for "qualified" status when the minimum requirements in RS 14 A.1. or 2. have been met.

Complaints about professional behavior or services, or failure to comply with laws, rules, policies and procedures, or decisions and orders are grounds for denial of registration as a qualified rehabilitation consultant. The intern may appeal the denial as provided in rule RS 15 B.

In cases where an intern has been supervised by a qualified rehabilitation consultant/affiliated who leaves the organization with which he has been affiliated and no other qualified rehabilitation consultant is available to supervise the intern, the intern may, with the approval of the commissioner, temporarily sign all required documents in the capacity of a qualified rehabiliation consultant. Past performance and overall experience will be taken into consideration for this approval.

~~c.~~ C. Experience criteria. The burden of proof of experience shall be on the applicant. This shall include documentation of a history of employment in a position of physical rehabilitation or vocational rehabilitation ~~of work-related injuries and diseases. One year of experience in rehabilitation of work-related injuries and diseases means one year of full-time experience, two years of 50% of time experience, three years of 33⅓% of time experience, or four years of 25% of time experience or any combination equal to 100% of one year's experience. The experience shall have been attained in not more than four consecutive years.~~ The experience requirements of A. for qualified rehabiliation consultants can be met only by full-time paid employment. School internship and volunteer activities are not acceptable as employment experience.

Supporting documents shall consist of signed statements by present and previous employers and insurers specifying the services, caseload, and amount of time spent in rehabilitation of work-related injuries and diseases.

~~d.~~ D. General criteria. All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

All persons who are qualified rehabilitation consultants shall be residents of ~~the state of~~ Minnesota. An organization authorized for the employment of qualified rehabilitation consultants may request an exception for a consultant who lives contiguous to a Minnesota catchment area if the organization and any such consultant agrees, as a condition to approval, to appear at any hearing when requested, in the same manner as if they had been subpoenaed. Failure to do so shall result in automatic revocation of the individual consultant's approval.

A qualified rehabilitation consultant operating on the effective date of this amendment with approval and registration is deemed to meet the standards of this rule. Qualified rehabilitation consultant interns operating on the effective date of this amendment with approval and registration must meet the minimum requirements of this rule in order to make application for qualified rehabilitation consultant registration.

RS 15. Procedure for qualifying as rehabilitation consultant.

~~a.~~ A. Application. An individual desiring to receive approval and registration as a qualified rehabilitation consultant shall submit to the commissioner, a complete application consisting of the following:

~~i.~~ 1. completed and signed application form (notarized); ~~and~~

~~ii.~~ 2. copy of current license or certification; ~~and~~

~~iii.~~ 3. supporting experience documentation; ~~and~~

~~iv.~~ 4. transcripts of all schools attended beyond high school; ~~and~~

~~v.~~ 5. list of pertinent continuing education by title, location, and date; ~~and~~

~~vi.~~ 6. list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and

7. the annual registration fee, which shall consist of $100 for qualified rehabilitation consultant firms and $50 for each qualified rehabilitation consultant or qualified rehabilitation consultant intern.

The commissioner shall issue a notice of acceptance or rejection to the applicant within ~~45~~ 60 days of receipt of the completed application and completion of an introductory training session.

~~b.~~ B. Appeal process. The appeal process provides a mechanism for applicants to request reconsideration of a rejected application for registration, renewal, and reinstatement.

A written notice of appeal shall be filed with the commissioner within 15 days of mailing of notice of disapproval.

The decision shall be reviewed by the review panel. The applicant shall be advised of the date, time, and place of the review at least ten ~~(10)~~ days prior to the hearing date, and is encouraged to be present.

~~c.~~ C. Registration. The commissioner shall assign a registration number to each qualified rehabilitation consultant. The registration number shall be on all reports submitted by the consultant.

To retain registration, the consultant must submit satisfactory evidence of approved continuing education pertinent to the workers' compensation rehabilitation field equivalent to 15 contact hours each year at the time registration is renewed.

~~d.~~ D. Renewal. Registration shall be renewed ~~every two years~~ annually.

If an interval of one year occurs without providing direct case service or without providing supervision to qualified rehabilitation consultants or qualified rehabilitation consultant interns who provide direct case service to workers' compensation recipients, the registration and approval is automatically revoked and reinstatement will be required in accordance with the minimum requirements in effect on the date of application for reinstatement.

Services and fee schedules shall be submitted to the commissioner whenever there is a change or no less than once each calendar year. This filing shall not constitute an approval or disapproval of the services or fees.

No later than 60 days prior to expiration of registration, the consultant shall request registration renewal on a form prescribed by the commissioner.

~~e.~~ E. Revocation ~~Qualified rehabilitation consultant approval and registration may be revoked by the commissioner for failure to comply with the rules or policies or for good cause. Notice of and reason for revocation shall be mailed to the consultant by the commissioner.~~

~~The consultant may appeal the revocation as provided in section 15, b.~~

~~A consultant whose registration has been revoked shall wait at least 180 days from the date of mailing of revocation to re-apply for approval.~~

The commissioner may review the activities of registered qualified rehabilitation consultants and vendors to determine if they are in compliance with all rehabilitation services' rules.

1. When the commissioner becomes aware of an apparent violation concerning a qualified rehabilitation consultant or vendor he shall write the qualified rehabilitation consultant or vendor. The qualified rehabilitation consultant or vendor may

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.

then respond by letter or by requesting an administrative conference. If the qualified rehabilitation consultant or vendor does not request an administrative conference, the commissioner may order that a conference occur. After the administrative conference, the commissioner shall determine if he should discipline the individual or firm based upon applicable rules and statutes and all evidence gathered by the conference. Regardless of the commissioner's decision, he shall issue an order setting forth the reasons for his actions. If discipline is decided on by the commissioner, it may consist of one or more of the following:

a. a written reprimand requesting the individual or firm to cease actions which resulted in the lack of compliance with rehabilitation services' rules;

b. a full restitution of improperly charged fees and services by the individual or firm to the insurance carrier;

c. an extension of intern status for up to six months beyond RS 14 requirements for application;

d. a restriction on accepting new cases for up to six months.

If the commissioner imposes discipline twice upon an individual or firm, the next apparent violation shall be referred to the rehabilitation review panel for review and any appropriate further discipline.

2. An individual or firm may appeal the commissioner's disciplinary action to the rehabilitation review panel by requesting a hearing in writing to the director of rehabilitation services within 30 calendar days of the commissioner's determination.

3. Upon the commissioner's referral of a third apparent violation, the firm or individual shall be given written notice of the referral and grounds for the review.

4. The rehabilitation review panel shall follow the hearing procedures set forth in Minnesota Statutes, section 176.102, subdivision 3a. The panel may take one or more of the following actions:

a. Absolving the individual or firm of any rehabilitation rule apparent violation and dismissal of the complaint;

b. Written reprimand;

c. Demotion of a qualified rehabilitation consultant to qualified rehabilitation consultant intern status;

d. Probation of a qualified rehabilitation consultant, qualified rehabilitation consultant intern, or vendor during which time another disciplinary action review by the panel would result in revocation;

e. Revocation of qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor status.

5. Procedures to appeal the determination of the review panel shall be as follows:

a. The panel's written decision and order shall act as a final order for purposes of implementing discipline. The decision is appealable to the Workers' Compensation Court of Appeals and must be filed in accordance with its rules; and

b. Unless otherwise ordered by the panel, an individual or firm whose registration has been revoked must wait at least one year from the effective date of revocation to reapply for a registered status.

RS 17. Procedure for approval as ~~a~~ registered rehabilitation vendor.

~~a.~~ A. Application. A private or public entity desiring to be approved as a registered rehabilitation vendor shall submit to the commissioner a complete application consisting of the following:

~~i.~~ 1. a completed and signed application; ~~and~~

~~ii.~~ 2. any data or information attached to support an application; ~~and~~

~~iii.~~ 3. a list of services and fees. This filing shall not constitute an approval or disapproval of the services or fees; and

4. the annual registration fee of $100 for each registered vendor.

~~b.~~ B. Appeal process. The appeal process herein shall be conducted the same as that provided in ~~section 15, b~~ RS 15 B.

~~c.~~ C. Renewal. The renewal process herein shall be conducted the same as that provided in ~~section 15, d~~ RS 15 D.

~~d.~~ D. Revocation. The revocation process herein shall be conducted the same as that provided in ~~section 15, e~~ RS 15 E.

Rules as Proposed (all new material)

RS 18. Standards of performance.

A. Goals. A qualified rehabilitation consultant, qualified rehabilitation consultant intern, and vendor should strive to meet certain policies recognized by rehabilitation services as fundamental to the rehabilitation profession. The statements in 1.-8. are objectives that rehabilitation services promotes to constantly upgrade the quality of professional rehabilitation care.

1. The welfare of the injured employee should be the primary focus of concern, communications, and activity by the qualified rehabilitation consultant or vendor.

2. The qualified rehabilitation consultant or vendor should maintain a fair and objective position in dealing with the employee, employer, and insurer.

3. The qualified rehabilitation consultant or vendor should maintain objective and effective lines of communication with all members of the rehabilitation team: the employee, employer, insurer, attorney, physician, qualified rehabilitation consultant, and vendor.

4. A qualified rehabilitation consultant or vendor should withdraw from any case in which achieving rehabilitation goals is being interfered with by the lack of rapport between the qualified rehabilitation consultant or vendor and the employee or in which there are personality conflicts between the employee and the qualified rehabilitation consultant or vendor.

5. A qualified rehabilitation consultant or vendor should keep abreast of professional advances and topics by participation in continuing education programs.

6. Rehabilitation providers should carry professional liability insurance for the protection of themselves and affected third parties.

7. A qualified rehabilitation consultant or vendor should not engage in any form of discrimination.

8. Any discussion, comments, or criticisms directed toward or about a fellow professional rehabilitation provider or organization should be positive or constructive.

B. Minimal standards. The standards of conduct described in C.-G. establish minimum standards concerning the professional activities of qualified rehabilitation consultants and rehabilitation vendors in Minnesota. The performance evaluations by rehabilitation services of qualified rehabilitation consultants and vendors will be based upon these standards, as well as on the adherence to Minnesota Statutes, section 176.102 and rules adopted to administer it.

C. Professional conduct.

1. In accord with RS 1, J., the qualified rehabilitation consultant or vendor shall provide rehabilitation services under a rehabilitation plan. The qualified rehabilitation consultant or vendor shall implement only those rehabilitation plans with which the employee, the employer/insurer, and the qualified rehabilitation consultant agree.

2. Only the assigned qualified rehabilitation consultant, or a qualified rehabilitation consultant designated by the assigned qualified rehabilitation consultant, shall be involved at any given time in the employee's rehabilitation effort, except as stated in 4. and 5. The assigned qualified rehabilitation consultant must submit the R-2 rehabilitation plan within 30 days of referral and must submit subsequent R-3 rehabilitation progress reports every 30 days to the office of rehabilitation services and the other parties.

3. A qualified rehabilitation consultant shall not provide services to any parties after there has been an approved change of qualified rehabilitation consultant except as provided in 4. and 5.

4. A qualified rehabilitation consultant shall cooperate in transferring to a newly approved qualified rehabilitation consultant all data, reports, and relevant information within 15 days from the date of letter of rehabilitation services approving the new qualified rehabilitation consultant.

5. If a hearing has been scheduled before a judge or a judicial body, a qualified rehabilitation consultant who is not the approved qualified rehabilitation consultant may perform an evaluation of the employee at the request of one of the parties. Rehabilitation services shall be notified in writing of the qualified rehabilitation consultant requested to do the evaluation. A copy of the evaluation report, if developed, shall be sent to rehabilitation services.

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.

6. A qualified rehabilitation consultant who has testified as an expert witness for any party in a judicial hearing may not function as the ongoing qualified rehabilitation consultant on the case unless agreed to by the parties.

7. A qualified rehabilitation consultant or vendor may make recommendations for referrals to appropriate resources.

8. The roles and functions of a claims agent and a qualified rehabilitation consultant or vendor are separate. A qualified rehabilitation consultant or vendor, or an agent of a rehabilitation provider, shall engage only in those activities designated in Minnesota Statutes, section 176.102, its rules and policies and procedures. Claims adjustment and claims investigation are prohibited activities for a rehabilitation provider.

D. Communications.

1. All reports submitted by a qualified rehabilitation consultant or vendor shall be legible and show the employee's name, social security number, date of injury, street address, county, zip code of residence, and legal representative, if any.

2. All reports shall be submitted in accordance with rehabilitation services' policy, procedure, and forms as prescribed by the commissioner.

3. The employer shall be provided with copies of all reporting forms.

4. Vendors are to submit all reports directly to the qualified rehabilitation consultant.

5. A qualified rehabilitation consultant or vendor must comply with all applicable data privacy acts.

6. A qualified rehabilitation consultant or vendor shall not engage in communications with a physician concerning an employee without a release of information form from the employee.

7. A qualified rehabilitation consultant or vendor shall not make recommendations concerning an intent to or date of retirement but may assist an employee in contacting resources concerning a choice of retirement or return to work.

8. A qualified rehabilitation consultant or vendor shall not recommend entering into settlement agreements.

9. A qualified rehabilitation consultant or vendor shall request only that information and data which will assist the parties in developing and carrying out the rehabilitation plan. They are prohibited from making investigations for claims processing purposes.

10. A qualified rehabilitation consultant or vendor shall provide all reports written by all parties regarding a case to rehabilitation services.

11. A qualified rehabilitation consultant shall provide a vendor access to all appropriate medical and rehabilitation reports relating to a case.

E. Responsibilities.

1. A qualified rehabilitation consultant is to instruct the employee in his rights and responsibilities by providing and reviewing with him the R-12 The Purpose of Rehabilitation Services and The Rights and Responsibilities of the Injured Worker form together with The Rehabilitation Feedback form during the initial interview.

2. A qualified rehabilitation consultant or vendor shall be knowledgeable and informed regarding portions of the workers' compensation law, rules, policies, and procedures that directly relate to the provision of rehabilitation services. If a qualified rehabilitation consultant or vendor communicates inaccurate information regarding workers' compensation not directly related to rehabilitation services, the rehabilitation provider is subject to discipline.

3. A qualified rehabilitation consultant or vendor shall contact rehabilitation services to clarify any rehabilitation issues or problems.

4. A qualified rehabilitation consultant or vendor's registration is subject to disciplinary action up to and including revocation based on substantiated complaints about professional behavior, services, or for failure to comply with established laws, rules, policies and procedures, decisions, or orders.

F. Continuing education and competencies.

1. A qualified rehabilitation consultant or vendor shall attend at least one introductory training session within six months of being registered provided by rehabilitation services.

2. Rehabilitation services annual update sessions are mandatory for all qualified rehabilitation consultants, qualified rehabilitation consultant interns, and all registered vendors.

G. Business practices. All registered qualified rehabilitation consultants, qualified rehabilitation consultant interns, and vendors shall abide by the following rules concerning a provider's business practices.

1. Rehabilitation providers shall adhere to all applicable federal, state, and local laws regulating business practices.

2. Rehabilitation providers shall not misrepresent themselves, their duties, or credentials. A rehabilitation provider must not promise or offer services or results he cannot deliver or has reason to believe he cannot provide. Competitive advertising must be factually accurate and must avoid exaggerating claims as to costs, results, and endorsements by other parties. When recruiting employees, rehabilitation providers must not falsely promise benefits, employment advancement, or salaries which they know or have reason to know they cannot provide.

3. If a fellow rehabilitation provider violates RS 1.-19., a qualified rehabilitation consultant or vendor having information about the violation must direct the information to rehabilitation services.

4. A provider shall not solicit referrals directly or indirectly by offering money or gifts. De minimis gifts are not considered the offering of money or gifts. De minimis gifts are those that have a fair market value of less than $25.

5. A rehabilitation provider shall advise the referral source and payer of its fee structure in advance of rendering any services and shall also furnish upon request, detailed and accurate time records regarding any bills in question.

6. Any fee arrangement which prevents individual assessment and services for each employee shall subject the providers to discipline. Any fee arrangement which provides employees with standardized services whether or not the services are necessary shall also subject the parties to discipline.

7. A rehabilitation provider shall not incur profit, split fees, or have an ownership interest with another rehabilitation provider outside of his or her own firm.

8. Qualified rehabilitation consultants shall not incur profit through an ownership interest with health care providers or split fees through referrals with health care providers. "Health care providers" means those defined in Minnesota Statutes, section 176.011, subdivision 24.

9. The prohibitions of 6., 7., and 8. shall not be construed to prevent married couples or family members from engaging simultaneously in rehabilitation or health care.

RS 19. Rehabilitation services and fees.

A. Fee monitoring.

1. Rehabilitation services has the responsibility and jurisdiction under Minnesota Statutes, section 176.102, subdivisions 2 and 9 to monitor and determine reasonable rehabilitation costs, the necessity of services provided, and to resolve any disputes that may arise between the parties according to rule RS 13.

2. The employer/insurer has the primary responsibility for monitoring and paying the cost of necessary rehabilitation services provided. Either the employer/insurer or a rehabilitation provider may request rehabilitation services to make a determination of reasonable costs and necessity of services.

3. Rehabilitation services shall conduct periodic audits of costs and services. The employer/insurer and the rehabilitation provider shall provide rehabilitation services with itemized services and costs upon request. Rehabilitation services must contact the parties to discuss costs and services deemed questionable by rehabilitation services or one of the parties. Rehabilitation services may order an administrative conference to discuss services and fee disputes, whether initiated by one of the parties or by rehabilitation services.

B. Reasonable and necessary services. A qualified rehabilitation consultant or vendor shall bill for only those necessary and reasonable services which are rendered in accordance with rehabilitation services rules and policies and procedures during completion of a plan. Reasonable and necessary services and fees shall be determined by the commissioner. The commissioner's review must include all the following factors, but may include other factors if enumerated in his eventual determination. These factors are:

1. The employee's unique disabilities and assets in relation to the goals, objectives, and timetable of the rehabilitation plan;

2. The type of rehabilitation services provided and the actual amount of time and expense incurred in providing the service;

3. The rehabilitation providers' fee schedules on file with rehabilitation services and other fee schedules of providers on file with rehabilitation services;

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.

4. An evaluation of whether services provided were unnecessary, duplicated other services, available at no charge to public, or were excessively sophisticated for the actual needs of the employee;

5. An evaluation of whether services rendered were expressly authorized by either the employer, insurer, or rehabilitation services;

6. An evaluation of whether Minnesota Statutes, chapter 176, and rehabilitation services' rules RS 1.-19. have been followed by the provider.

No registered qualified rehabilitation consultant, qualified rehabilitation consultant intern, or registered vendor shall attempt to collect reimbursement for an unnecessary or unreasonable procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

C. Reporting requirements. All qualified rehabilitation consultants must provide rehabilitation services with certain information regarding an employee's case for purposes of rehabilitation services' monitoring of services and overall record keeping requirements.

1. The qualified rehabilitation consultant shall provide rehabilitation services with an initial evaluation narrative report concerning the employee which will include the following information in summary fashion;

a. medical status;

b. vocational history;

c. educational history;

d. social/economic status;

e. transferable skills;

f. employment barriers; and

g. recommendations;

2. The qualified rehabilitation consultant shall provide narrative progress reports, if needed, of up to one page;

3. The qualified rehabilitation consultant shall send attached to progress reports required by 2. completed copies of all vendor reports, medical, psychological, and vocational reports regarding an employee's case.

4. The qualified rehabilitation consultant shall also forward to rehabilitation services copies of completed reports prepared for other parties by him or her.

The requesting party shall pay for all costs incurred by a rehabilitation provider in creating a report not required by rehabilitation services.

D. Estimated goal dates and costs. When developing the rehabilitation plan and progress reports, the qualified rehabilitation consultant must make a professional judgment regarding any projected goal date and estimated costs. This shall include projected goal date and estimated costs submitted by any vendor. When the date or cost has been exceeded, the qualified rehabilitation consultant and any rehabilitation vendor must submit to rehabilitation services an itemized billing and no more than a one page rationale regarding continued provision of rehabilitation services. The rehabilitation provider is to submit the rationale to the employer/insurer. If the parties are unable to agree, any party may request a review by rehabilitation services.

E. Invoices are to be attached to all plan completion forms.

F. Consent of employer/insurer; exceptions. A qualified rehabilitation consultant or vendor shall obtain the express consent of the employer/insurer before providing the following services, however, the presence or the absence of express consent shall not preclude rehabilitation services from determining the reasonable value or necessity of these services:

1. costs for physician visits, phone calls to physicians, accompanying employee to appointments or examinations not directed to plan objectives;

2. follow-up activity with employers during job placement services to verify employee applications not arranged by qualified rehabilitation consultant or vendor;

3. phone calls to rehabilitation services regarding general procedures on questions or rehabilitation direction;

4. unanswered attempted phone calls;

5. time spent for report writing beyond items indicated in the reporting guidelines of C.;

6. qualified rehabilitation consultant billings during vendor activity periods beyond required reporting or specific problem solving activity;

7. time for attendance of a supervisor or observer at administrative conferences when the qualified rehabilitation consultant is providing services to the employee;

8. any services rendered prior to the acceptance of eligibility for rehabilitation by an insurer or determination or eligibility by rehabilitation services;

9. time spent reviewing the file and initial contact to establish rapport with interested parties by a qualified rehabilitation consultant or vendor when a case has been transferred from another qualified rehabilitation consultant or vendor within the same rehabilitation firm;

10. time spent by a supervisor, another qualified rehabilitation consultant, or support staff in addition to the qualified rehabilitation consultant of record;

11. job placement activities beyond 90 days from the start of the job placement effort without a plan review;

12. wait time for cold call or early arrival for a prearranged appointment;

13. time spent by a qualified rehabilitation consultant selected by the employee before approval of a qualified rehabilitation consultant change has been issued by rehabilitation services;

14. services that are not needed or repeat services already done.

15. charges beyond the hourly fee for testimony at a judicial hearing when the qualified rehabilitation consultant or vendor has provided rehabilitation service under the plan;

16. travel costs beyond those needed to develop or complete a plan; or

17. any disputed services and fees in regard to rehabilitation provided.

Department of Public Welfare

Proposed Amendments to Existing Rules of the Minnesota Merit System Governing the Compensation Plan

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in Conference Room A, fourth floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, on September 26, 1983, commencing at 9:30 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed amendments of existing rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the above-entitled matter, 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 George A. Beck, Office of Administrative Hearings, 4th floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, (612) 341-7601, 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. §§ 14.01-14.56, 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. The 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 or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

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.

A summary of proposed revisions to the rules is as follows:

A proposed revision to 12 MCAR § 2.494 provides a recommended general salary adjustment of 4% for merit system employees effective January 1, 1984.

Proposed revisions to 12 MCAR § 2.840 provide for an upgrading of minimum and maximum salary rates for all classes by 4% with a few exceptions, provide class titles and minimum and maximum salary rates for new classes established and the deletion of classes that have been abolished.

The agency's authority to adopt the proposed rules is contained in Minn. Stat. § 256.012.

The cost to local public bodies of implementing the proposed rule changes will not exceed $100,000 for 1984.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph Corey, Department of Public Welfare, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 296-3996. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Ralph Corey.

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 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 communication 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.

August 3, 1983

Leonard W. Levine
Commissioner of Public Welfare

Rules as Proposed

12 MCAR § 2.494 Compensation plan.

A.-E. [Unchanged]

F. Salary adjustments and increases.

1.-2. [Unchanged.]

3. Recommended adjustment. The merit system general adjustment recommended for incumbents is ~~seven and eight-tenths~~ four percent for employees on the professional, support, clerical, and maintenance and trades salary schedules.

4.-5. [Unchanged.]

G.-I. [Unchanged.]

12 MCAR § 2.840 Compensation plan; Public Welfare—~~1983~~ 1984.

A. Professional.

1. Plan A. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Accountant	1665	2373
Accounting Supervisor	1901	2838
Administrative Assistant I	~~1706~~ 1774	~~2550~~ 2652

Administrative Assistant II	~~1869~~	1944	~~2786~~	2897
Administrative Assistant III	~~2184~~	2271	~~3123~~	3248
Adult Day Care Center Supervisor	~~1400~~	1456	~~2090~~	2174
Assistant Human Services Director	~~2282~~	2373	~~3264~~	3395
Assistant Welfare Director	~~2851~~	2965	~~4057~~	4219
Associate Methods & Procedures Analyst	~~1338~~	1392	~~1531~~	1592
Auditor	~~1670~~	1737	~~2497~~	2597
Center Coordinator	~~1531~~	1592	~~2282~~	2373
Chemical Dependency Coordinator	~~1531~~	1592	~~2282~~	2373
Collection Services Supervisor II	~~1634~~	1699	~~2441~~	2539
Community-Health Services Supervisor	~~1706~~	1774	~~2550~~	2775
Community-Relations Specialist	~~1746~~	1816	~~2497~~	2597
Computer Programmer	~~1338~~	1392	~~1746~~	1816
Day Care Center Teacher	1331		1993	
Developmental Achievement Center Director	~~1400~~	1456	~~2090~~	2174
Developmental Achievement Center Teacher	~~1280~~	1331	~~1916~~	1993
Developmental Disabilities Coordinator	~~1400~~	1456	~~2090~~	2174
Dietitian	~~1338~~	1392	~~1916~~	1993
Director Of Business Management I	~~2042~~	2124	~~2786~~	2897
Director Of Business Management II	~~2497~~	2597	~~3556~~	3698
Director of Financial Assistance	~~2282~~	2373	~~3264~~	3395
Director of Planning	~~2282~~	2373	~~3264~~	3395
Director of Public Health Nursing I	~~1670~~	1737	~~2386~~	2597
Director of Social Services	~~2282~~	2373	~~3264~~	3395
Director of Support Services	~~2282~~	2373	~~3264~~	3395
Education Supervisor	~~1601~~	1665	~~2282~~	2373
Employment Guidance Counselor I	~~1280~~	1331	~~1828~~	1901
Employment Guidance Counselor II	~~1338~~	1392	~~1916~~	1993
Employment Guidance Counselor III	~~1400~~	1456	~~1999~~	2079
Family ~~Services~~ Service Coordinator II	~~1464~~	1523	~~1999~~	2079
Financial Assistance Supervisor II	~~1706~~	1774	~~2550~~	2652
Financial Assistance Supervisor IV	~~1869~~	1944	~~2786~~	2897
Fiscal Manager	~~2282~~	2373	~~3264~~	3395
Fiscal Supervisor III	~~1601~~	1665	~~2282~~	2373
Fiscal Supervisor IV	~~1828~~	1901	~~2729~~	2838
~~Home Care Coordinator~~	~~1464~~		~~1999~~	
Homemaker Supervisor	~~1601~~	1665	~~2282~~	2373
Human Services Director III	~~2610~~	2714	~~3712~~	3860
Human Services Supervisor I	~~1706~~	1774	~~2550~~	2652
Marriage Counselor	~~1670~~	1737	~~2386~~	2481
Medical-Care Advisor	~~1400~~	1456	~~1999~~	2079
Mental Health Program Manager	1944		2897	
Mental Health Worker	~~1531~~	1592	~~2282~~	2373
Methods & Procedures Analyst	~~1565~~	1628	~~2229~~	2318
Methods & Procedures Supervisor	~~1828~~	1901	~~2610~~	2714
Nutrition Project Assistant Director	~~1280~~	1331	~~1916~~	1993
Nutrition Project Director	~~1706~~	1774	~~2550~~	2652
~~Occupational Supervisor Instructor I~~	~~1225~~		~~1828~~	
~~Occupational Supervisor Instructor II~~	~~1400~~		~~2090~~	
Office Manager	~~1280~~	1331	~~1828~~	1901
Office Services Supervisor II	1331		1901	

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.

Personnel Officer	~~1280~~ 1331	~~1916~~ 1993
Personnel Director	~~1785~~ 1856	~~2668~~ 2775
Planner (Human Services)	~~1601~~ 1665	~~2282~~ 2373
Programmer Analyst	~~1601~~ 1665	~~2184~~ 2271
Psychologist I	~~1531~~ 1592	~~2184~~ 2271
Psychologist II	~~1828~~ 1901	~~2610~~ 2714
Psychologist III	~~2137~~ 2222	~~2919~~ 3036
Psychologist IV	~~2332~~ 2425	~~3192~~ 3220
Public Health Educator I	~~1338~~ 1392	~~1828~~ 1901
Public Health Educator II	~~1670~~ 1737	~~2282~~ 2373
Public Health Nurse	~~1400~~ 1456	~~1828~~ 1993
Public Health Nurse (Team Leader)	~~1464~~ 1523	~~1916~~ 2079
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	~~1338~~ 1392	~~1601~~ 1816
Resident Activity Coordinator	1331	1993
Sanitarian I	~~1338~~ 1392	~~1601~~ 1665
Sanitarian II	~~1464~~ 1523	~~1999~~ 2079
Senior Public Health Nurse	~~1531~~ 1592	~~1999~~ 2174
Social Worker I	~~1280~~ 1331	~~1916~~ 1993
Social Worker II	~~1400~~ 1456	~~2090~~ 2174
Social Worker III	~~1531~~ 1592	~~2282~~ 2373
~~Social Worker Trainee~~	~~1169~~	~~1169~~
Social Services Supervisor I	~~1706~~ 1774	~~2550~~ 2652
Social Services Supervisor II	~~1869~~ 1944	~~2786~~ 2897
Social Welfare Supervisor III	~~2184~~ 2271	~~3123~~ 3248
~~Social Welfare Supervisor Trainee~~	~~1634~~	~~2042~~
Staff Training Supervisor I	~~1746~~ 1816	~~2497~~ 2597
Staff Training Supervisor II	~~1916~~ 1993	~~2729~~ 2838
Student Social Worker (Intern)	Rate proposed by appointing authority.	
Student Social Worker (SWEP)	Rate proposed by appointing authority.	
Systems Programmer Analyst	~~1828~~ 1901	~~2497~~ 2597
Trainee	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of public welfare.	
Volunteer Services Coordinator I	~~1280~~ 1331	~~1916~~ 1993
Volunteer Services Coordinator II	~~1601~~ 1665	~~2282~~ 2373
Welfare Director I	~~1955~~ 2079	~~2919~~ 3105
Welfare Director II	~~2137~~ 2271	~~3192~~ 3395
Welfare Director III	~~2386~~ 2539	~~3408~~ 3619
Welfare Director IV	~~2610~~ 2775	~~3712~~ 3945
Welfare Director V	~~3556~~ 3698	~~5169~~ 5376
Work-Experience & Training Specialist	~~1601~~ 1665	~~2282~~ 2373

2. Plan B. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Accountant	1665	2373
Accounting Supervisor	1901	2838
Administrative Assistant I	~~1785~~ 1856	~~2668~~ 2775
Administrative Assistant II	~~1955~~ 2033	~~2919~~ 3036
Administrative Assistant III	~~2282~~ 2373	~~3264~~ 3395
Adult Day Care Center Supervisor	~~1464~~ 1523	~~2184~~ 2271
Assistant Human Services Director	~~2282~~ 2373	~~3264~~ 3395
Assistant Welfare Director	~~2851~~ 2965	~~4057~~ 4219
Associate Methods & Procedures Analyst	~~1400~~ 1456	~~1601~~ 1665
Auditor	~~1746~~ 1816	~~2610~~ 2714
Center Coordinator	~~1601~~ 1665	~~2386~~ 2481

Chemical Dependency Coordinator	~~1601~~	1665	~~2386~~	2481
Collections Services Supervisor II	~~1706~~	1774	~~2550~~	2652
Community-Health Services Supervisor	~~1785~~	1856	~~2668~~	2897
Community-Relations Specialist	~~1828~~	1901	~~2610~~	2714
Computer Programmer	~~1400~~	1456	~~1828~~	1901
Day Care Center Teacher	1392		2079	
Developmental Achievement Center Director	~~1464~~	1523	~~2184~~	2271
Developmental Achievement Center Teacher	~~1338~~	1392	~~1999~~	2079
Developmental Disabilities Coordinator	~~1464~~	1523	~~2184~~	2271
Dietitian	~~1400~~	1456	~~1999~~	2079
Director of Business Management I	~~2042~~	2124	~~2786~~	2897
Director of Business Management II	~~2497~~	2597	~~3556~~	3698
Director of Financial Assistance	~~2386~~	2481	~~3408~~	3544
Director of Planning	~~2386~~	2481	~~3408~~	3544
Director of Public Health Nursing I	~~1746~~	1816	~~2497~~	2714
Director of Social Services	~~2386~~	2481	~~3408~~	3544
Director of Support Services	~~2386~~	2481	~~3408~~	3544
Education Supervisor	~~1670~~	1737	~~2386~~	2481
Employment Guidance Counselor I	~~1338~~	1392	~~1916~~	1993
Employment Guidance Counselor II	~~1400~~	1456	~~1999~~	2079
Empoyment Guidance Counselor III	~~1464~~	1523	~~2090~~	2174
Family Service Coordinator II	~~1531~~	1592	~~2090~~	2174
Financial Assistance Supervisor III	~~1785~~	1856	~~2668~~	2775
Financial Assistance Supervisor IV	~~1955~~	2033	~~2919~~	3036
Fiscal Manager	~~2282~~	2373	~~3264~~	3395
Fiscal Supervisor III	~~1601~~	1665	~~2282~~	2373
Fiscal Supervisor IV	~~1828~~	1901	~~2729~~	2838
~~Home Care Coordinator~~	~~1531~~		~~2090~~	
Homemaker Supervisor	~~1670~~	1737	~~2386~~	2481
Human Services Director III	~~2610~~	2714	~~3712~~	3860
Human Services Supervisor I	~~1785~~	1856	~~2668~~	2775
Marriage Counselor	~~1746~~	1816	~~2497~~	2597
Medical-Care Advisor	~~1464~~	1523	~~2090~~	2174
Mental Health Program Manager	2033		3036	
Mental Health Worker	~~1601~~	1665	~~2386~~	2481
Methods & Procedures Analyst	~~1634~~	1699	~~2332~~	2425
Methods & Procedures Supervisor	~~1916~~	1993	~~2729~~	2838
Nutrition Project Assistant Director	~~1338~~	1392	~~1999~~	2079
Nutrition Project Director	~~1785~~	1856	~~2668~~	2775
~~Occupational Supervisor Instructor I~~	~~1280~~		~~1916~~	
~~Occupational Supervisor Instructor II~~	~~1464~~		~~2184~~	
Office Manager	~~1338~~	1392	~~1916~~	1993
Office Services Supervisor II	1392		1993	
Personnel Officer	~~1338~~	1392	~~1999~~	2079
Personnel Director	~~1869~~	1944	~~2786~~	2897
Planner (Human Services)	~~1670~~	1737	~~2386~~	2481
Programmer Analyst	~~1670~~	1737	~~2282~~	2373
Psychologist I	~~1601~~	1665	~~2282~~	2373
Psychologist II	~~1916~~	1993	~~2729~~	2838
Psychologist III	~~2229~~	2318	~~3052~~	3174

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.

Psychologist IV	~~2441~~ 2539	~~3332~~ 3465
Public Health Educator I	~~1400~~ 1456	~~1916~~ 1993
Public Health Educator II	~~1746~~ 1816	~~2386~~ 2481
Public Health Nurse	~~1464~~ 1523	~~1916~~ 2079
Public Health Nurse (Team Leader)	~~1531~~ 1592	~~1999~~ 2174
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	~~1400~~ 1456	~~1746~~ 1901
Resident Activity Coordinator	1392	2079
Sanitarian I	~~1400~~ 1456	~~1670~~ 1737
Sanitarian II	~~1531~~ 1592	~~2090~~ 2174
Senior Public Health Nurse	~~1601~~ 1665	~~2090~~ 2271
Social Worker I	~~1338~~ 1392	~~1999~~ 2079
Social Worker II	~~1464~~ 1523	~~2184~~ 2271
Social Worker III	~~1601~~ 1665	~~2386~~ 2481
~~Social Worker Trainee~~	~~1169~~	~~1169~~
Social Services Supervisor I	~~1785~~ 1856	~~2668~~ 2775
Social Services Supervisor II	~~1955~~ 2033	~~2919~~ 3036
Social Welfare Supervisor III	~~2282~~ 2373	~~3264~~ 3395
~~Social Welfare Supervisor Trainee~~	~~1706~~	~~2137~~
Staff Training Supervisor I	~~1828~~ 1901	~~2610~~ 2714
Staff Training Supervisor II	~~1999~~ 2079	~~2851~~ 2965
Student Social Worker (Intern)	Rate proposed by appointing authority.	
Student Social Worker (SWEP)	Rate proposed by appointing authority.	
Systems Programmer Analyst	~~1916~~ 1993	~~2610~~ 2714
Trainee	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of public welfare.	
Volunteer Services Coordinator I	~~1338~~ 1392	~~1999~~ 2079
Volunteer Services Coordinator II	~~1670~~ 1737	~~2386~~ 2481
Welfare Director I	~~1955~~ 2079	~~2919~~ 3105
Welfare Director II	~~2137~~ 2271	~~3192~~ 3395
Welfare Director III	~~2386~~ 2539	~~3408~~ 3619
Welfare Director IV	~~2610~~ 2775	~~3712~~ 3945
Welfare Director V	~~3556~~ 3698	~~5169~~ 5376
Work-Experience & Training Specialist	~~1670~~ 1737	~~2386~~ 2481

3. Plan C. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Accountant	1665	2373
Accounting Supervisor	1901	2838
Administrative Assistant I	~~1869~~ 1944	~~2786~~ 2897
Administrative Assistant II	~~2042~~ 2124	~~3052~~ 3174
Administrative Assistant III	~~2386~~ 2481	~~3408~~ 3544
Adult Day Care Center Supervisor	~~1531~~ 1592	~~2282~~ 2373
Assistant Human Services Director	~~2282~~ 2373	~~3264~~ 3395
Assistant Welfare Director	~~2851~~ 2965	~~4057~~ 4219
Associate Methods & Procedures Analyst	~~1464~~ 1523	~~1670~~ 1737
Auditor	~~1828~~ 1901	~~2729~~ 2838
Center Coordinator	~~1670~~ 1737	~~2497~~ 2597
Chemical Dependency Coordinator	~~1670~~ 1737	~~2497~~ 2597
Collections Services Supervisor II	~~1785~~ 1856	~~2668~~ 2775
Community-Health Services Supervisor	~~1869~~ 2033	~~2786~~ 3036
Community-Relations Specialist	~~1916~~ 1993	~~2729~~ 2838
Computer Programmer	~~1464~~ 1523	~~1916~~ 1993
Day Care Center Teacher	1456	2174

Developmental Achievement Center Director	~~1531~~	1592	~~2282~~	2373
Developmental Achievement Center Teacher	~~1400~~	1456	~~2090~~	2174
Developmental Disabilities Coordinator	~~1531~~	1592	~~2282~~	2373
Dietitian	~~1464~~	1523	~~2090~~	2174
Director of Business Management I	~~2042~~	2124	~~2786~~	2897
Director of Business Management II	~~2497~~	2597	~~3556~~	3698
Director of Financial Assistance	~~2497~~	2597	~~3556~~	3698
Director of Planning	~~2497~~	2597	~~3556~~	3698
Director of Public Health Nursing I	~~1828~~	1993	~~2610~~	2838
Director of Social Services	~~2497~~	2597	~~3556~~	3698
Director of Support Services	~~2497~~	2597	~~3556~~	3698
Education Supervisor	~~1746~~	1816	~~2497~~	2597
Employment Guidance Counselor I	~~1400~~	1456	~~1999~~	2079
Employment Guidance Counselor II	~~1464~~	1523	~~2090~~	2174
Employment Guidance Counselor III	~~1531~~	1592	~~2184~~	2271
Family Service Coordinator II	~~1601~~	1665	~~2184~~	2271
Financial Assistance Supervisor III	~~1869~~	1944	~~2786~~	2897
Financial Assistance Supervisor IV	~~2042~~	2124	~~3052~~	3174
Fiscal Manager	~~2282~~	2373	~~3264~~	3395
Fiscal Supervisor III	~~1601~~	1665	~~2282~~	2373
Fiscal Supervisor IV	~~1828~~	1901	~~2729~~	2838
~~Home Care Coordinator~~	~~1601~~		~~2184~~	
Homemaker Supervisor	~~1746~~	1816	~~2497~~	2597
Human Services Director III	~~2610~~	2714	~~3712~~	3860
Human Services Supervisor I	~~1869~~	1944	~~2786~~	2897
Marriage Counselor	~~1828~~	1901	~~2610~~	2714
Medical-Care Advisor	~~1531~~	1592	~~2184~~	2271
Mental Health Program Manager	2124		3174	
Mental Health Worker	~~1670~~	1737	~~2497~~	2597
Methods & Procedures Analyst	~~1706~~	1774	~~2441~~	2539
Methods & Procedures Supervisor	~~1999~~	2079	~~2851~~	2965
Nutrition Project Assistant Director	~~1400~~	1456	~~2090~~	2174
Nutrition Project Director	~~1869~~	1944	~~2786~~	2897
~~Occupational Supervisor Instructor I~~	~~1338~~		~~1999~~	
~~Occupational Supervisor Instructor II~~	~~1531~~		~~2282~~	
Office Manager	~~1400~~	1456	~~1999~~	2079
Office Services Supervisor II	1456		2079	
Personnel Officer	~~1400~~	1456	~~2090~~	2174
Personnel Director	~~1955~~	2033	~~2919~~	3036
Planner (Human Services)	~~1746~~	1816	~~2497~~	2597
Programmer Analyst	~~1746~~	1816	~~2386~~	2481
Psychologist I	~~1670~~	1737	~~2386~~	2481
Psychologist II	~~1999~~	2079	~~2851~~	2965
Psychologist III	~~2332~~	2425	~~3192~~	3320
Psychologist IV	~~2550~~	2652	~~3480~~	3619
Public Health Educator I	~~1464~~	1523	~~1999~~	2079
Public Health Educator II	~~1828~~	1901	~~2497~~	2597
Public Health Nurse	~~1565~~	1699	~~2042~~	2318
Public Health Nurse (Team Leader)	~~1634~~	1774	~~2137~~	2425
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	~~1495~~	1628	~~1869~~	2124

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.

Resident Activity Coordinator	1456	2174
Sanitarian I	~~1464~~ 1523	~~1746~~ 1816
Sanitarian II	~~1601~~ 1665	~~2184~~ 2271
Senior Public Health Nurse	~~1706~~ 1856	~~2229~~ 2539
Social Worker I	~~1400~~ 1456	~~2090~~ 2174
Social Worker II	~~1531~~ 1592	~~2282~~ 2373
Social Worker III	~~1670~~ 1737	~~2497~~ 2597
~~Social Worker Trainee~~	~~1169~~	~~1169~~
Social Services Supervisor I	~~1869~~ 1944	~~2786~~ 2897
Social Services Supervisor II	~~2042~~ 2124	~~3052~~ 3174
Social Welfare Supervisor III	~~2386~~ 2481	~~3408~~ 3544
~~Social Welfare Supervisor Trainee~~	~~1785~~	~~2229~~
Staff Training Supervisor I	~~1916~~ 1993	~~2729~~ 2838
Staff Training Supervisor II	~~2090~~ 2174	~~2986~~ 3105
Student Social Worker (Intern)	Rate proposed by appointing authority.	
Studunt Social Worker (SWEP)	Rate proposed by appointing authority.	
Systems Programmer Analyst	~~1999~~ 2079	~~2729~~ 2838
Trainee	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of public welfare.	
Volunteer Services Coordinator I	~~1400~~ 1456	~~2090~~ 2174
Volunteer Services Coordinator II	~~1746~~ 1816	~~2497~~ 2597
Welfare Director I	~~1955~~ 2079	~~2919~~ 3105
Welfare Director II	~~2137~~ 2271	~~3192~~ 3395
Welfare Director III	~~2386~~ 2539	~~3408~~ 3619
Welfare Director IV	~~2610~~ 2775	~~3712~~ 3945
Welfare Director V	~~3556~~ 3698	~~5169~~ 5376
Work-Experience & Training Specialist	~~1746~~ 1816	~~2497~~ 2597

B. Support personnel.

1. Plan A. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Account Clerk	~~937~~ 974	~~1280~~ 1331
Accounting Technician	~~1001~~ 1041	~~1368~~ 1423
Adult Day Care Center Program Coordinator	~~956~~ 994	~~1368~~ 1423
Assistant Residential Facility Operator(s)	~~768~~ 799	~~1049~~ 1091
Case Aide	~~956~~ 994	~~1368~~ 1423
Chemical Dependency Counselor	~~1225~~ 1274	~~1601~~ 1665
Child Health Aide	~~838~~ 872	~~1146~~ 1192
Child Support Officer I	~~1169~~ 1216	~~1670~~ 1737
Child Support Officer II	~~1307~~ 1359	~~1785~~ 1856
Collection Services Supervisor I	~~1495~~ 1555	~~2042~~ 2124
Community Service Aide	~~642~~ 668	~~838~~ 872
Coordinator of Aging	~~979~~ 1018	~~1400~~ 1456
Data Entry Supervisor	1216	1665
Developmental Achievement Center Instructor	~~768~~ 799	~~956~~ 994
Family Service Aide I	~~768~~ 799	~~956~~ 994
Family Service Aide II	~~838~~ 872	~~1146~~ 1192
Family Service Coordinator I	~~1049~~ 1091	~~1368~~ 1423
Family Service/Home Health Aide	~~768~~ 799	~~956~~ 994
Financial Assistance Specialist	~~1225~~ 1274	~~1670~~ 1737
Financial Assistance Supervisor I	~~1431~~ 1488	~~2042~~ 2124
Financial Assistance Supervisor II	~~1565~~ 1628	~~2229~~ 2318
Financial Worker I	~~956~~ 994	~~1368~~ 1423
Financial Worker II	~~1073~~ 1116	~~1531~~ 1592
Fiscal Officer	~~1225~~ 1274	~~1746~~ 1816

Fiscal Supervisor I	~~1338~~ 1392	~~1916~~ 1993
Fiscal Supervisor II	~~1495~~ 1555	~~2137~~ 2222
Food Stamp Quality Control Reviewer	1274	1737
Home Health Aide	~~768~~ 799	~~956~~ 994
Home Health Aide Coordinator	~~1049~~ 1091	~~1368~~ 1423
Housekeeper	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of public welfare.	
Housing Coordinator	~~1195~~ 1243	~~1706~~ 1774
Licensed Practical Nurse	~~1024~~ 1065	~~1280~~ 1331
Office Services Supervisor I	1165	1592
Personnel Aide	~~1073~~ 1116	~~1464~~ 1523
Public Health Aide	~~642~~ 668	~~838~~ 872
Residential Facility Operator(s)	~~799~~ 831	~~1096~~ 1140
Senior Case Aide	~~1073~~ 1116	~~1531~~ 1592
Senior Citizen's Aide	~~642~~ 668	~~828~~ 872
~~Transportation Coordinator~~	~~979~~	~~1338~~
Welfare Fraud Investigator	~~1495~~ 1555	~~1955~~ 2033
~~Welfare Fraud Unit Supervisor~~	~~1634~~	~~2137~~

2. Plan B. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Account Clerk	~~979~~ 1018	~~1338~~ 1392
Accounting Technician	~~1049~~ 1091	~~1431~~ 1488
Adult Day Care Center Program Coordinator	~~1001~~ 1041	~~1431~~ 1488
Assistant Residential Facility Operator(s)	~~799~~ 831	~~1096~~ 1140
Case Aide	~~1001~~ 1041	~~1431~~ 1488
Chemical Dependency Counselor	~~1280~~ 1331	~~1670~~ 1737
Child Health Aide	~~876~~ 911	~~1195~~ 1243
Child Support Officer I	~~1225~~ 1274	~~1746~~ 1816
Child Support Officer II	~~1368~~ 1423	~~1869~~ 1944
Collection Services Supervisor I	~~1565~~ 1628	~~2137~~ 2222
Community Service Aide	~~674~~ 701	~~876~~ 911
Coordinator of Aging	~~1024~~ 1065	~~1464~~ 1523
Data Entry Supervisor	1274	1737
Developmental Achievement Center Instructor	~~799~~ 831	~~1001~~ 1041
Family Service Aide I	~~799~~ 831	~~1001~~ 1041
Family Service Aide II	~~876~~ 911	~~1195~~ 1243
Family Service Coordinator I	~~1096~~ 1140	~~1431~~ 1488
Family Service/Home Health Aide	~~799~~ 831	~~1001~~ 1041
Financial Assistance Specialist	~~1280~~ 1331	~~1746~~ 1816
Financial Assistance Supervisor I	~~1495~~ 1555	~~2137~~ 2222
Financial Assistance Supervisor II	~~1634~~ 1699	~~2332~~ 2425
Financial Worker I	~~1001~~ 1041	~~1431~~ 1488
Financial Worker II	~~1120~~ 1165	~~1601~~ 1665
Fiscal Officer	~~1225~~ 1274	~~1746~~ 1816
Fiscal Supervisor I	~~1338~~ 1392	~~1916~~ 1993
Fiscal Supervisor II	~~1495~~ 1555	~~2137~~ 2222
Food Stamp Quality Control Reviewer	1331	1816
Home Health Aide	~~799~~ 831	~~1001~~ 1041

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.

Home Health Aide Coordinator	~~1096~~ 1140	~~1431~~ 1488
Housekeeper	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of public welfare.	
Housing Coordinator	~~1252~~ 1302	~~1785~~ 1856
Licensed Practical Nurse	~~1073~~ 1116	~~1338~~ 1392
Office Services Supervisor I	1216	1665
Personnel Aide	~~1120~~ 1165	~~1531~~ 1592
Public Health Aide	~~674~~ 701	~~876~~ 911
Residential Facility Operator(s)	~~838~~ 872	~~1146~~ 1192
Senior Case Aide	~~1120~~ 1165	~~1601~~ 1665
Senior Citizen's Aide	~~674~~ 701	~~876~~ 911
~~Transportation Coordinator~~	~~1024~~	~~1400~~
Welfare Fraud Investigator	~~1565~~ 1628	~~2042~~ 2124
~~Welfare Fraud Unit Supervisor~~	~~1706~~	~~2229~~

3. Plan C. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Account Clerk	~~1024~~ 1065	~~1400~~ 1456
Accounting Technician	~~1096~~ 1140	~~1495~~ 1555
Adult Day Care Center Program Coordinator	~~1049~~ 1091	~~1495~~ 1555
Assistant Residential Facility Operator(s)	~~838~~ 872	~~1146~~ 1192
Case Aide	~~1049~~ 1091	~~1495~~ 1555
Chemical Dependency Counselor	~~1338~~ 1392	~~1746~~ 1816
Child Health Aide	~~915~~ 952	~~1252~~ 1302
Child Support Officer I	~~1280~~ 1331	~~1828~~ 1901
Child Support Officer II	~~1431~~ 1488	~~1955~~ 2033
Collection Services Supervisor I	~~1634~~ 1699	~~2229~~ 2318
Community Service Aide	~~705~~ 733	~~915~~ 952
Coordinator of Aging	~~1073~~ 1116	~~1531~~ 1592
Data Entry Supervisor	1331	1816
Developmental Achievement Center Instructor	~~838~~ 872	~~1049~~ 1091
Family Service Aide I	~~838~~ 872	~~1049~~ 1091
Family Service Aide II	~~915~~ 952	~~1252~~ 1302
Family Service Coordinator I	~~1146~~ 1192	~~1495~~ 1555
Family Service/Home Health Aide	~~838~~ 872	~~1049~~ 1091
Financial Assistance Specialist	~~1338~~ 1392	~~1828~~ 1901
Financial Assistance Supervisor I	~~1565~~ 1628	~~2229~~ 2318
Financial Assistance Supervisor II	~~1706~~ 1774	~~2441~~ 2539
Financial Worker I	~~1049~~ 1091	~~1495~~ 1555
Financial Worker II	~~1169~~ 1216	~~1670~~ 1737
Fiscal Officer	~~1225~~ 1274	~~1746~~ 1816
Fiscal Supervisor I	~~1338~~ 1392	~~1916~~ 1993
Fiscal Supervisor II	~~1495~~ 1555	~~2137~~ 2222
Food Stamp Quality Control Reviewer	1392	1901
Home Health Aide	~~838~~ 872	~~1049~~ 1091
Home Health Aide Coordinator	~~1146~~ 1192	~~1495~~ 1555
Housekeeper	Rate proposed by appointing authority and approved by the merit system, supervisor and the commissioner of public welfare.	
Housing Coordinator	~~1307~~ 1359	~~1869~~ 1944
Licensed Practical Nurse	~~1120~~ 1165	~~1400~~ 1456
Office Services Supervisor I	1274	1737
Personnel Aide	~~1169~~ 1216	~~1601~~ 1665
Public Health Aide	~~705~~ 733	~~915~~ 952
Residential Facility Operator(s)	~~876~~ 911	~~1195~~ 1243

Senior Case Aide	~~1169~~	1216	~~1670~~	1737
Senior Citizen's Aide	~~705~~	733	~~915~~	952
~~Transportation Coordinator~~	~~1073~~		~~1464~~	
Welfare Fraud Investigator	~~1634~~	1699	~~2137~~	2222
~~Welfare Fraud Unit Supervisor~~	~~1785~~		~~2332~~	

C. Clerical.

1. Plan A. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum		Maximum	
Administrative Secretary	961		1314	
~~Clerical Supervisor~~	~~924~~		~~1263~~	
Clerk I	~~664~~	691	~~904~~	940
Clerk II	~~759~~	789	~~1034~~	1075
Clerk III	~~845~~	879	~~1157~~	1203
Clerk-Typist I	~~695~~	723	~~945~~	983
Clerk-Typist II	~~759~~	789	~~1034~~	1075
Clerk-Typist III	~~845~~	879	~~1157~~	1203
~~Clerk-Specialist~~	~~924~~		~~1263~~	
Clerk-Steno I	~~729~~	758	~~989~~	1029
Clerk-Steno II	~~826~~	859	~~1131~~	1176
~~Clerk-Steno III~~	~~885~~		~~1206~~	
Data Entry Operator	~~759~~	789	~~1034~~	1075
Information Systems Specialist	~~845~~	879	~~1157~~	1203
Switchboard Operator I	~~759~~	789	~~1034~~	1075
Switchboard Operator II	~~806~~	838	~~1107~~	1151

Employees in the class of Clerk-Typist I who are assigned on a full-time basis to transcribing machine operation may be paid within the county range for Clerk-Stenographer I.

2. Plan B. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum		Maximum	
Administrative Secretary	1101		1436	
~~Clerical Supervisor~~	~~1059~~		~~1381~~	
Clerk I	~~759~~	789	~~989~~	1029
Clerk II	~~863~~	898	~~1131~~	1176
Clerk III	~~965~~	1004	~~1263~~	1314
Clerk-Typist I	~~791~~	823	~~1034~~	1075
Clerk-Typist II	~~863~~	898	~~1131~~	1176
Clerk-Typist III	~~965~~	1004	~~1263~~	1314
~~Clerk Specialist~~	~~1059~~		~~1381~~	
Clerk-Steno I	~~826~~	859	~~1082~~	1125
Clerk-Steno II	~~945~~	983	~~1236~~	1285
~~Clerk-Steno III~~	~~1010~~		~~1318~~	
Data Entry Operator	~~863~~	898	~~1131~~	1176
Information Systems Specialist	~~965~~	1004	~~1263~~	1314
Switchboard Operator I	~~863~~	898	~~1131~~	1176
Switchboard Operator II	~~924~~	961	~~1206~~	1254

Employees in the class of Clerk-Typist I who are assigned on a full-time basis to transcribing machine operation may be paid within the county range for Clerk-Stenographer I.

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. Plan C. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions.

	Minimum	Maximum
Administrative Secretary	1203	1569
~~Clerical Supervisor~~	~~1157~~	~~1509~~
Clerk I	~~826~~ 859	~~1082~~ 1125
Clerk II	~~945~~ 983	~~1236~~ 1285
Clerk III	~~1059~~ 1101	~~1381~~ 1436
Clerk-Typist I	~~863~~ 898	~~1131~~ 1176
Clerk-Typist II	~~945~~ 983	~~1236~~ 1285
Clerk-Typist III	~~1059~~ 1101	~~1381~~ 1436
~~Clerk Specialist~~	~~1157~~	~~1509~~
Clerk-Steno I	~~904~~ 940	~~1179~~ 1226
Clerk-Steno II	~~1034~~ 1075	~~1350~~ 1404
~~Clerk-Steno III~~	~~1107~~	~~1445~~
Data Entry Operator	~~945~~ 983	~~1236~~ 1285
Information Systems Specialist	~~1059~~ 1101	~~1381~~ 1436
Switchboard Operator I	~~945~~ 983	~~1236~~ 1285
Switchboard Operator II	~~1010~~ 1050	~~1318~~ 1371

Employees in the class of Clerk-Typist I who are assigned on a full-time basis to transcribing machine operation may be paid within the county range for Clerk-Stenographer I.

D. Maintenance and trades.

1. Plan A. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions. Janitors who are required to work for a period of at least five hours after 6 p.m. on a regularly scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

	Minimum	Maximum
Auto Driver	~~792~~ 824	~~1021~~ 1062
Bus Driver	~~863~~ 898	~~1107~~ 1151
Janitor	~~863~~ 898	~~1107~~ 1151
Laborer	~~$4.96/hr.~~ $5.16/hr.	~~$4.96/hr.~~ $5.16/hr.
~~Maintenance Worker~~	~~899~~	~~1158~~

2. Plan B. The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions. Janitors who are required to work for a period of at least five hours after 6 p.m. on a regularly scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

	Minimum	Maximum
Auto Driver	~~1021~~ ~~1062~~	~~1313~~ 1366
Bus Driver	~~1063~~ ~~1106~~	~~1369~~ 1424
Janitor	~~1021~~ ~~1062~~	~~1313~~ 1366
Laborer	~~$6.11/hr.~~ $6.36/hr.	~~$6.11/hr.~~ $6.36/hr.
~~Maintenance Worker~~	~~1107~~	~~1428~~

Department of Health

Proposed Amendments to Existing Rules of the Minnesota Merit System Governing the Compensation Plan

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in Conference Room A, fourth floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, on September 26, 1983, commencing at 9:30 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed amendments of existing rules may be modified as a result of

the hearing process. Therefore, if you are affected in any manner by the above-entitled matter, 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 George A. Beck, Office of Administrative Hearings, 4th floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, (612) 341-7601, 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. §§ 14.01-14.56, 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. The 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 or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

A summary of proposed revisions to the rules is as follows:

A proposed revision to 7 MCAR § 1.2395 provides a recommended general salary adjustment of 4% for merit system employees effective January 1, 1984.

Proposed revisions to 7 MCAR § 1.314 provide for upgrading of minimum and maximum salary rates for all classes by 4%, with a few exceptions, and the deletion of classes that have been abolished.

The agency's authority to adopt the proposed rules is contained in Minn. Stat. § 144.071.

The cost to local public bodies of implementing the proposed rule changes will not exceed $100,000 for 1984.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph Corey, Department of Public Welfare, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 296-3996. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Ralph Corey.

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 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.

August 2, 1983

Sister Mary Madonna Ashton
Commissioner of Health

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.

Rules as Proposed

7 MCAR § 1.2395 Salary adjustments and increases.

A.-B. [Unchanged.]

C. Recommended adjustments. The merit system general adjustment recommended for incumbents is ~~seven and eight tenths~~ four percent for employees on the professional and administrative, health services support, clerical, and building maintenance salary schedules.

D.-E. [Unchanged.]

7 MCAR § 1.314 Compensation plan (Public Health) ~~1983~~ 1984. The tables in A.-D. list minimum and maximum salary steps in monthly salary amounts for the specified classes of positions.

A. Professional and administrative.

1. Plan A.

	Minimum	Maximum
Assistant Director of Environmental Health	~~1828~~ 1901	~~2610~~ 2714
Assistant Director of Public Health Nursing	~~1670~~ 1737	~~2386~~ 2597
Business Administrator	~~1670~~ 1737	~~2386~~ 2481
Business Supervisor	~~1225~~ 1274	~~1746~~ 1816
Director of Environmental Health	~~2090~~ 2174	~~2986~~ 3105
Director of Public Health Nursing I	~~1670~~ 1737	~~2386~~ 2597
Director of Public Health Nursing II	~~1828~~ 1901	~~2610~~ 2714
Home Care Coordinator	~~1464~~	~~1999~~
Medical Technologist	~~1338~~ 1392	~~1746~~ 1816
Public Health Educator I	~~1338~~ 1392	~~1828~~ 1901
Public Health Educator II	~~1670~~ 1737	~~2282~~ 2373
Public Health Nurse	~~1400~~ 1456	~~1828~~ 1993
Public Health Nurse (Team Leader)	~~1464~~ 1523	~~1916~~ 2079
Public Health Nutritionist	~~1531~~ 1592	~~2090~~ 2174
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	~~1338~~ 1392	~~1670~~ 1816
Sanitarian I	~~1338~~ 1392	~~1601~~ 1665
Sanitarian II	~~1464~~ 1523	~~1999~~ 2079
Sanitarian III	~~1601~~ 1665	~~2282~~ 2373
Sanitarian IV	~~1746~~ 1816	~~2497~~ 2597
School Health Coordinator	~~1400~~ 1456	~~1916~~ 1993
Senior Public Health Nurse	~~1531~~ 1592	~~1999~~ 2174

2. Plan B.

	Minimum	Maximum
Assistant Director of Environmental Health	~~1916~~ 1993	~~2729~~ 2838
Assistant Director of Public Health Nursing	~~1746~~ 1816	~~2497~~ 2714
Business Administrator	~~1746~~ 1816	~~2497~~ 2597
Business Supervisor	~~1280~~ 1331	~~1828~~ 1901
Director of Environmental Health	~~2184~~ 2271	~~3123~~ 3248
Director of Public Health Nursing I	~~1746~~ 1861	~~2497~~ 2714
Director of Public Health Nursing II	~~1916~~ 1993	~~2729~~ 2838
~~Home Care Coordinator~~	~~1531~~	~~2090~~
Medical Technologist	~~1400~~ 1456	~~1828~~ 1901
Public Health Educator I	~~1400~~ 1456	~~1916~~ 1993
Public Health Educator II	~~1746~~ 1816	~~2386~~ 2481
Public Health Nurse	~~1464~~ 1523	~~1916~~ 2079
Public Health Nurse (Team Leader)	~~1531~~ 1592	~~1999~~ 2174
Public Health Nutritionist	~~1601~~ 1665	~~2184~~ 2271
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	~~1400~~ 1456	~~1746~~ 1901
Sanitarian I	~~1400~~ 1456	~~1670~~ 1737
Sanitarian II	~~1531~~ 1592	~~2090~~ 2174

Sanitarian III	~~1670~~ 1737	~~2386~~ 2481
Sanitarian IV	~~1828~~ 1901	~~2610~~ 2714
School Health Coordinator	~~1464~~ 1523	~~1999~~ 2079
Senior Public Health Nurse	~~1601~~ 1665	~~2090~~ 2271

3. Plan C.

	Minimum	Maximum
Assistant Director of Environmental Health	~~1999~~ 2079	~~2851~~ 2965
Assistant Director of Public Health Nursing	~~1828~~ 1993	~~2610~~ 2838
Business Administrator	~~1828~~ 1901	~~2610~~ 2714
Business Supervisor	~~1338~~ 1392	~~1916~~ 1993
Director of Environmental Health	~~2282~~ 2373	~~3264~~ 3395
Director of Public Health Nursing I	~~1828~~ 1993	~~2610~~ 2838
Director of Public Health Nursing II	~~1999~~ 2079	~~2851~~ 2965
~~Home Care Coordinator~~	~~1601~~	~~2184~~
Medical Technologist	~~1464~~ 1523	~~1916~~ 1993
Public Health Educator I	~~1464~~ 1523	~~1999~~ 2079
Public Health Educator II	~~1828~~ 1901	~~2497~~ 2597
Public Health Nurse	~~1565~~ 1699	~~2042~~ 2318
Public Health Nurse (Team Leader)	~~1634~~ 1774	~~2137~~ 2425
Public Health Nutritionist	~~1670~~ 1737	~~2282~~ 2373
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	~~1495~~ 1628	~~1869~~ 2124
Sanitarian I	~~1464~~ 1523	~~1746~~ 1816
Sanitarian II	~~1601~~ 1665	~~2184~~ 2271
Sanitarian III	~~1746~~ 1816	~~2497~~ 2597
Sanitarian IV	~~1916~~ 1993	~~2729~~ 2838
School Health Coordinator	~~1531~~ 1592	~~2090~~ 2174
Senior Public Health Nurse	~~1706~~ 1856	~~2229~~ 2539

B. Health services support personnel.

1. Plan A.

	Minimum	Maximum
Animal Warden	~~956~~ 994	~~1252~~ 1302
Bookkeeper	~~1001~~ 1041	~~1431~~ 1488
Home Health Aide	~~768~~ 799	~~956~~ 994
Home Health Aide Coordinator	~~1049~~ 1091	~~1368~~ 1423
Inspector I	~~1073~~ 1116	~~1225~~ 1274
Inspector II	~~1169~~ 1216	~~1531~~ 1592
Laboratory Technician	~~915~~ 952	~~1195~~ 1243
Licensed Practical Nurse	~~1024~~ 1065	~~1280~~ 1331
Medical Laboratory Assistant	~~956~~ 994	~~1252~~ 1302
Nutrition Assistant	~~1001~~ 1041	~~1368~~ 1423
Public Health Aide	~~642~~ 668	~~838~~ 872

2. Plan B.

	Minimum	Maximum
Animal Warden	~~1001~~ 1041	~~1307~~ 1359
Bookkeeper	~~1049~~ 1091	~~1495~~ 1555
Home Health Aide	~~799~~ 831	~~1001~~ 1041
Home Health Aide Coordinator	~~1096~~ 1140	~~1431~~ 1488
Inspector I	~~1120~~ 1165	~~1280~~ 1331
Inspector II	~~1225~~ 1274	~~1601~~ 1665

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.

Laboratory Technician	~~956~~ 994	~~1252~~ 1302
Licensed Practical Nurse	~~1093~~ 1116	~~1338~~ 1392
Medical Laboratory Assistant	~~1001~~ 1041	~~1307~~ 1359
Nutrition Assistant	~~1049~~ 1091	~~1431~~ 1488
Public Health Aide	~~674~~ 701	~~876~~ 911

3. Plan C.

	Minimum	Maximum
Animal Warden	~~1049~~ 1091	~~1368~~ 1423
Bookkeeper	~~1096~~ 1140	~~1565~~ 1628
Home Health Aide	~~838~~ 872	~~1049~~ 1091
Home Health Aide Coordinator	~~1146~~ 1192	~~1495~~ 1555
Inspector I	~~1169~~ 1216	~~1338~~ 1392
Inspector II	~~1280~~ 1331	~~1670~~ 1737
Laboratory Technician	~~1001~~ 1041	~~1307~~ 1359
Licensed Practical Nurse	~~1120~~ 1165	~~1400~~ 1456
Medical Laboratory Assistant	~~1049~~ 1091	~~1368~~ 1423
Nutrition Assistant	~~1096~~ 1140	~~1495~~ 1555
Public Health Aide	~~705~~ 733	~~915~~ 952

C. Clerical.

1. Plan A.

	Minimum	Maximum
Clerk I	~~664~~ 691	~~904~~ 940
Clerk II	~~759~~ 789	~~1034~~ 1075
Clerk III	~~845~~ 879	~~1157~~ 1203
Clerk-Typist I	~~695~~ 723	~~945~~ 983
Clerk-Typist II	~~759~~ 789	~~1034~~ 1075
Clerk-Typist III	~~845~~ 879	~~1157~~ 1203
Clerk-Steno I	~~729~~ 758	~~989~~ 1029
Clerk-Steno II	~~826~~ 859	~~1131~~ 1176
~~Clerk-Steno III~~	~~885~~	~~1206~~
Switchboard Operator I	~~759~~ 789	~~1034~~ 1075
Switchboard Operator II	~~806~~ 838	~~1107~~ 1151

2. Plan B.

	Minimum	Maximum
Clerk I	~~759~~ 789	~~989~~ 1029
Clerk II	~~863~~ 898	~~1131~~ 1176
Clerk III	~~965~~ 1004	~~1263~~ 1314
Clerk-Typist I	~~791~~ 823	~~1034~~ 1075
Clerk-Typist II	~~863~~ 898	~~1131~~ 1176
Clerk-Typist III	~~965~~ 1004	~~1263~~ 1314
Clerk-Steno I	~~826~~ 859	~~1082~~ 1125
Clerk-Steno II	~~945~~ 983	~~1236~~ 1285
~~Clerk-Steno III~~	~~1010~~	~~1318~~
Switchboard Operator I	~~863~~ 898	~~1131~~ 1176
Switchboard Operator II	~~924~~ 961	~~1206~~ 1254

3. Plan C.

	Minimum	Maximum
Clerk I	~~826~~ 859	~~1082~~ 1125
Clerk II	~~945~~ 983	~~1236~~ 1285
Clerk III	~~1059~~ 1101	~~1381~~ 1436
Clerk-Typist I	~~863~~ 898	~~1131~~ 1176
Clerk-Typist II	~~945~~ 983	~~1236~~ 1285
Clerk-Typist III	~~1059~~ 1101	~~1381~~ 1436
Clerk-Steno I	~~904~~ 940	~~1179~~ 1226
Clerk-Steno II	~~1034~~ 1075	~~1350~~ 1404

~~Clerk Steno III~~	~~1107~~	~~1445~~
Switchboard Operator I	~~945~~ 983	~~1236~~ 1285
Switchboard Operator II	~~1010~~ 1050	~~1318~~ 1371

D. Building maintenance. Employees in the classes specified in 1. and 2. who are required to work for a period of at least five hours after 6 p.m. on a regularly scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

1. Plan A.

	Minimum	Maximum
Custodian	~~736~~ 765	~~863~~ 898
Janitor	~~863~~ 898	~~1107~~ 1151

2. Plan B.

	Minimum	Maximum
Custodian	~~863~~ 898	~~1021~~ 1062
Janitor	~~1021~~ 1062	~~1313~~ 1366

Department of Public Safety

Proposed Amendments to Existing Rules of the Minnesota Merit System Governing the Compensation Plan

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in Conference Room A, fourth floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota on September 26, 1983, commencing at 9:30 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed amendments of existing rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the above-entitled matter, 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. Statement may be made orally and written materials may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to George A. Beck, Office of Administrative Hearings, 4th floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, (612) 341-7601, 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. §§ 14.01-14.56, 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. The 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 or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

A summary of proposed revisions to the rules is as follows:

A proposed revision to 11 MCAR § 1.2094 provides a recommended general salary adjustment of 4% for merit system employees effective January 1, 1984.

Proposed revisions to 11 MCAR § 1.2140 provide for an upgrading of minimum and maximum salary rates for all classes by 4% and the deletion of the class Clerk Stenographer III which has been abolished.

The agency's authority to adopt the proposed rules is contained in Minn. Stat. § 12.22, subd. 3.

The cost to local public bodies of implementing the proposed rule changes will not exceed $100,000 for 1984.

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.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph Corey, Department of Public Welfare, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 296-3966. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Ralph Corey.

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 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.

August 2, 1983

Rudy Perpich
Governor

Rules as Proposed

11 MCAR § 1.2094 Compensation plan.

A.-E. [Unchanged.]

F. Salary adjustments and increases.

1.-2. [Unchanged.]

3. Recommended adjustment. The merit system general adjustment recommended for incumbents is ~~seven and eight-tenths~~ four percent for employees on the professional and clerical salary schedules.

4.-5. [Unchanged.]

G.-I. [Unchanged.]

11 MCAR § 1.2140 Compensation plan (emergency services)~~—1983~~ 1984.

A. Professional.

1. Plan A.

	Minimum	Maximum
Administrative Officer	~~1400~~ 1456	~~1916~~ 1993
Assistant Civil Defense Director I	~~937~~ 974	~~1280~~ 1331
Assistant Civil Defense Director II	~~1120~~ 1165	~~1531~~ 1592
Assistant Civil Defense Director III	~~1338~~ 1392	~~1828~~ 1901
Assistant Civil Defense Director IV	~~1601~~ 1665	~~2184~~ 2271
Communications Officer	~~1225~~ 1274	~~1670~~ 1737
County Civil Defense Director I	~~1338~~ 1392	~~1828~~ 1901
County Civil Defense Director II	~~1531~~ 1592	~~2090~~ 2174
County Civil Defense Director III	~~1746~~ 1816	~~2386~~ 2481
County Civil Defense Director IV	~~2497~~ 2597	~~3408~~ 3544
Local Civil Defense Director I	~~1073~~ 1116	~~1464~~ 1523
Local Civil Defense Director II	~~1225~~ 1274	~~1670~~ 1737
Local Civil Defense Director III	~~1400~~ 1456	~~1916~~ 1993
Local Civil Defense Director IV	~~1746~~ 1816	~~2386~~ 2481
Local Civil Defense Director V	~~2497~~ 2597	~~3408~~ 3544
Operations Officer	~~1400~~ 1456	~~1916~~ 1993

Public Information Officer	~~1400~~ 1456	~~1916~~ 1993
Radiological Defense Officer	~~1225~~ 1274	~~1670~~ 1737
Safety Services Coordinator	~~1400~~ 1456	~~1916~~ 1993

2. Plan B.

	Minimum	Maximum
Administrative Officer	~~1464~~ 1523	~~1999~~ 2079
Assistant Civil Defense Director I	~~979~~ 1018	~~1338~~ 1392
Assistant Civil Defense Director II	~~1169~~ 1216	~~1601~~ 1665
Assistant Civil Defense Director III	~~1400~~ 1456	~~1916~~ 1993
Assistant Civil Defense Director IV	~~1670~~ 1737	~~2282~~ 2373
Communications Officer	~~1280~~ 1331	~~1746~~ 1816
County Civil Defense Director I	~~1338~~ 1392	~~1828~~ 1901
County Civil Defense Director II	~~1531~~ 1592	~~2090~~ 2174
County Civil Defense Director III	~~1746~~ 1816	~~2386~~ 2481
County Civil Defense Director IV	~~2497~~ 2597	~~3408~~ 3544
Local Civil Defense Director I	~~1073~~ 1116	~~1464~~ 1523
Local Civil Defense Director II	~~1225~~ 1274	~~1670~~ 1737
Local Civil Defense Director III	~~1400~~ 1456	~~1916~~ 1993
Local Civil Defense Director IV	~~1746~~ 1816	~~2386~~ 2481
Local Civil Defense Director V	~~2497~~ 2597	~~3408~~ 3544
Operations Officer	~~1464~~ 1523	~~1999~~ 2079
Public Information Officer	~~1464~~ 1523	~~1999~~ 2079
Radiological Defense Officer	~~1280~~ 1331	~~1746~~ 1816
Safety Services Coordinator	~~1464~~ 1523	~~1999~~ 2079

3. Plan C.

	Minimum	Maximum
Administrative Officer	~~1531~~ 1592	~~2090~~ 2174
Assistant Civil Defense Director I	~~1024~~ 1065	~~1400~~ 1456
Assistant Civil Defense Director II	~~1225~~ 1274	~~1670~~ 1737
Assistant Civil Defense Director III	~~1464~~ 1523	~~1999~~ 2079
Assistant Civil Defense Director IV	~~1746~~ 1816	~~2386~~ 2481
Communications Officer	~~1338~~ 1392	~~1828~~ 1901
County Civil Defense Director I	~~1338~~ 1392	~~1828~~ 1901
County Civil Defense Director II	~~1531~~ 1592	~~2090~~ 2174
County Civil Defense Director III	~~1746~~ 1816	~~2386~~ 2481
County Civil Defense Director IV	~~2497~~ 2597	~~3408~~ 3544
Local Civil Defense Director I	~~1073~~ 1116	~~1464~~ 1523
Local Civil Defense Director II	~~1225~~ 1274	~~1670~~ 1737
Local Civil Defense Director III	~~1400~~ 1456	~~1916~~ 1993
Local Civil Defense Director IV	~~1746~~ 1816	~~2386~~ 2481
Local Civil Defense Director V	~~2497~~ 2597	~~1408~~ 3544
Operations Officer	~~1531~~ 1592	~~2090~~ 2174
Public Information Officer	~~1531~~ 1592	~~2090~~ 2174
Radiological Defense Officer	~~1338~~ 1392	~~1828~~ 1901
Safety Services Coordinator	~~1531~~ 1592	~~2090~~ 2174

B. Clerical.

1. Plan A.

	Minimum	Maximum
Clerk I	~~664~~ 691	~~904~~ 940
Clerk II	~~759~~ 789	~~1034~~ 1075

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.

Clerk III	~~845~~ 879	~~1137~~ 1203
Clerk-Typist I	~~723~~ 723	~~945~~ 983
Clerk-Typist II	~~759~~ 789	~~1034~~ 1075
Clerk-Typist III	~~845~~ 879	~~1157~~ 1203
Clerk-Steno I	~~729~~ 758	~~989~~ 1029
Clerk-Steno II	~~826~~ 859	~~1131~~ 1176
~~Clerk-Steno III~~	~~885~~	~~1206~~

2. Plan B.

	Minimum	Maximum
Clerk I	~~759~~ 789	~~989~~ 1029
Clerk II	~~863~~ 898	~~1131~~ 1176
Clerk III	~~965~~ 1004	~~1263~~ 1314
Clerk-Typist I	~~791~~ 823	~~1034~~ 1075
Clerk-Typist II	~~863~~ 898	~~1131~~ 1176
Clerk-Typist III	~~965~~ 1004	~~1263~~ 1314
Clerk-Steno I	~~826~~ 859	~~1032~~ 1125
Clerk-Steno II	~~945~~ 983	~~1236~~ 1285
~~Clerk-Steno III~~	~~1010~~	~~1318~~

3. Plan C.

	Minimum	Maximum
Clerk I	~~828~~ 859	~~1082~~ 1125
Clerk II	~~945~~ 983	~~1236~~ 1285
Clerk III	~~1059~~ 1101	~~1381~~ 1436
Clerk-Typist I	~~863~~ 898	~~1131~~ 1176
Clerk-Typist II	~~945~~ 983	~~1236~~ 1285
Clerk-Typist III	~~1059~~ 1101	~~1381~~ 1436
Clerk-Steno I	~~904~~ 940	~~1179~~ 1226
Clerk-Steno II	~~1034~~ 1075	~~1350~~ 1404
~~Clerk-Steno III~~	~~1107~~	~~1445~~

Department of Revenue
Income Tax Division

Proposed Repeal of an Income Tax Rule Relating to Individual Housing Accounts (13 MCAR § 1.6016)

Notice of Intent to Repeal a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to repeal 13 MCAR § 1.6016, Individual Housing Accounts, without a public hearing. The Commissioner of Revenue has determined that the proposed repeal of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§ 14.21 to 14.28.

13 MCAR § 1.6016 deals with Individual Housing Accounts. The authority for the rule was contained in Minnesota Statutes § 290.08, subdivision 25. Minnesota Statutes § 290.08, subdivision 25 was repealed by the legislature in the 1983 Omnibus Tax Bill, Laws 1983, chapter 342, article I, section 44. The repeal of Minnesota Statutes § 290.08, subdivision 25 was made effective for taxable years beginning after December 31, 1982. Therefore, it is proposed that the rule be repealed.

Persons interested in this rule repealer shall have 30 days to submit comments on the proposed rule repealer. The proposed rule repealer 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 repeal.

Unless seven or more persons submit written requests for a public hearing on the proposed rule repealer 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 §§ 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Mr. John P. Malach, Jr.
Attorney, Income Tax Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3439

Authority for the repeal of this rule is contained in Minnesota Statutes § 290.52. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the rule repealer and identifies the data and information relied upon, to support the proposed rule repealer, has been prepared and is available from Mr. Malach upon request.

Upon adoption of the final rule without public hearing, the proposed rule repealer, this notice, the statement of need and reasonableness, all written comments received, and the final rule repealer as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the final rule repealer, as proposed for adoption, should submit a written statement of such request to Mr. Malach.

The entire text of the proposed rule repealer is as follows: Repealer. Rule 13 MCAR Section 1.6016 is repealed.

August 5, 1983

Arthur C. Roemer
Commissioner of Revenue

Rules as Proposed (all new material)

Repealer. Rule 13 MCAR § 1.6016 is repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

Public Employment Relations Board

Adopted Rules Governing Issues and Appeals, Arbitration of Terms and Conditions of Employment, Arbitration of Grievances, and Independent Review

The rules proposed and published at *State Register*, Volume 7, Number 36, pages 1258-1271, March 7, 1983 (7 S.R. 1258) are adopted with the following modifications:

Rules as Adopted

8 MCAR § 3.017 The hearing.

E. Decorum.

1. The presiding officer may prohibit the operation of a television, newsreel, motion picture, still, or other camera and

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.

mechanical recording devices in the hearing room while the hearing is in progress if such operation shall be determined to have a significantly adverse ~~affect~~ effect on the hearing.

8 MCAR § 3.035 Selection of an arbitrator.

When the director has certified an impasse to the board pursuant to Minnesota Statutes, section 179.69, the board shall submit to the parties a list of seven names for the selection of an arbitrator. If a party desires a single arbitrator, it shall notify the board in writing of its request. Such request must be received by the board or postmarked within five working days after the requesting party's receipt of the list of arbitrators and before striking of names commences. In selecting the single arbitrator or a three-member panel, the parties shall alternately strike names from the list until the appropriate number of names remains. If the parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. In the case of a three-member panel, the parties shall designate a convenor. If the parties fail to agree upon a convenor, each party shall strike, in the continued order of striking, one name from the panel. The remaining arbitrator shall act as the convenor for the purpose of commencing the proceedings. After selection, the parties shall immediately notify the board in writing of the name of the single arbitrator or the names of the panel and convenor.

8 MCAR § 3.063 Petition.

A. Authority to petition. An employee may petition the board in writing for independent review of a grievance arising out of the interpretation of or adherence to terms and conditions of employment when no other such procedure exists to hear that grievance. The petitioner shall provide all parties a copy of the petition at the time of filing with the board.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota
County of Dakota

Tax Court
Regular Division

John M. Sawicke,

Appellant,

v.

The Commissioner of Revenue,

Appellee.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT

Order Dated: 8/1/83

The above matter was tried on March 29, 1983 by the Minnesota Tax Court, Judge Carl A. Jensen presiding, at the Minnesota Tax Court Hearing Room in St. Paul, Minnesota. Briefs were subsequently filed by both parties.

Appellant, John M. Sawicke, appeared on his own behalf.

Thomas K. Overton, Special Assistant Attorney General, appeared on behalf of Appellee.

Syllabus

An existing domicile is presumed to continue until a new one is clearly established.

Findings of Fact

1. Appellant, John M. Sawicke, is a cash basis taxpayer. This case involves his 1977 Minnesota income tax.

2. Prior to June 1975, Appellant worked for Control Data Corporation in Minneapolis as a computer programmer.

3. Appellant was a domiciliary of the State of Minnesota from October 1, 1968 to at least June, 1975. Appellant claims that he was a Virginia domiciliary from January, 1975 through 1978. The commissioner claims that Appellant was a Minnesota domiciliary throughout.

4. Before, during and after 1977, Appellant's parents occupied a home at 6508 62nd Avenue North, Minneapolis, Minnesota. This was Appellant's last permanent address in the United States prior to going overseas in 1975.

5. In June, 1975, Appellant commenced employment with Computer Sciences Corporation. That corporation assigns employees to work at various locations throughout the world.

6. For part of June, 1975, Appellant stayed in Falls Church, Virginia.

7. From June 19, 1975 through December, 1976, Appellant was assigned to work and live in Tehran, Iran.

8. Appellant does not contend that he changed his domicile to Iran.

9. On January 1, 1976, Appellant filed an Application for Extension of Time for Filing United States Income Tax Return. On it he stated that his last permanent address in the United States was 6508 62nd Avenue North, Minneapolis, Minnesota. He had resided there with his parents.

10. In January, 1977, Appellant returned to the United States and stayed at 6508 62nd Avenue North, Minneapolis, Minnesota, until January 20, 1977.

11. Appellant purchased a 1977 Oldsmobile from Lindahl Olds, Minneapolis, Minnesota, in January, 1971.

12. The 1977 Oldsmobile purchased in January, 1977 was financed with a loan from GMAC, Minneapolis, Minnesota, and the final payment on this loan was made in March, 1979.

13. The Oldsmobile was titled and registered (licensed) in Minnesota. Appellant gave his address as 6508 62nd Avenue North, Minneapolis, Minnesota. The vehicle remained titled and registered in Minnesota until it was sold (after 1979).

14. The Oldsmobile was insured with a Minnesota agent and the address maintained on the insurance was 6508 62nd Avenue North, Minneapolis, Minnesota.

15. In January 1977, Appellant opened a savings account at Northwestern National Bank of Minneapolis, the institution where he maintained his checking account.

16. From January 20, 1977 to October, 1977, Appellant was assigned by Computer Sciences Corporation to work at the General Services Administration in Washington, D.C.

17. On January 28, 1977, Appellant filed his 1975 Minnesota Income Tax Return showing his address as 6508 62nd Avenue North, Minneapolis, Minnesota.

18. From November, 1977 through January, 1978, Appellant was assigned by Computer Sciences Corporation to the Customs Bureau. Appellant considered this to be a temporary assignment.

19. From January 20, 1977 through January, 1978, Appellant lived in two different apartments in Virginia.

20. Virginia state taxes were withheld from Appellant's wages. However, Appellant did not file a Virginia income tax return.

21. From February, 1978 through September, 1978, Appellant was employed by Galler Associates.

22. During his employment by Galler Associates, Appellant worked in the Minneapolis area and lived at an apartment in the Minneapolis area paid for by Galler Associates.

23. Galler Associates did not withhold any Virginia state taxes.

24. In February, 1978, Appellant renewed his Minnesota drivers license.

25. In March, 1978, Appellant refinanced his outstanding loan with the Minneapolis Federal Employees Credit Union.

26. In March, 1978, Appellant purchased a boat (in Minnesota) and a trailer (in Minnesota). He registered both the boat and trailer in Minnesota.

27. On his 1977 Income Tax Return (filed about April 1978), Appellant stated that his address was 6508 62nd Avenue North, Minneapolis, Minnesota.

28. In May, 1978, P.N.S., a partnership owned by Appellant and another, filed an application for a Minnesota Tax Identification Number. It showed that Appellant's home address was 6508 62nd Avenue North, Minneapolis, Minnesota.

29. From September, 1978 through January, 1979, Appellant was employed by P.N.S.

30. From September, 1978 through January, 1979, Appellant again lived at 6508 62nd Avenue North, Minneapolis, Minnesota.

31. In February, 1979, Appellant returned to work for Control Data Corporation in Minneapolis, Minnesota.

32. Appellant rented an apartment in the Minneapolis area.

33. Appellant maintained his Master Charge account from 1975 through 1978. The billing address was at all times 6508 62nd Avenue North, Minneapolis, Minnesota. See Appellant's Answer No. 10 to Discovery Requests Set No. 1.

34. Appellant maintained an outstanding loan from Minneapolis Federal Employees Credit Union from before 1975 to the present.

35. Appellant has maintained his checking account with Northwestern National Bank, Minneapolis, Minnesota from 1968 to the present.

36. Appellant has maintained his share account with the Minneapolis Federal Employees Credit Union from 1968 to the present.

37. Appellant has maintained his Minnesota drivers license from 1963 to the present. He did not obtain one from Virginia.

38. Throughout the period from 1975 through 1979, Appellant acknowledged that he consistently gave 6508 62nd Avenue North, Minneapolis, Minnesota as his home address for all important matters. He stated that he did so because he relocated frequently, staying in each location for only short periods of time.

39. Appellee issued an Order dated December 4, 1981 stating that it had prepared a tax return for the year 1977 for the Appellant since Appellant had failed to file such return after being requested to do so. This Order indicated that the tax for the year 1977 was $1,654.80. A penalty of $413.70 was assessed together with interest to the date of the Order of $635.17 making a total due as of December 4, 1981 in the amount of $2,703.67.

40. Under the circumstances existing in this matter, no penalty should be assessed.

41. Appellant's W-2 tax statement for 1977 indicates that a Virginia State tax of $862.40 was withheld from Appellant's wages. There was no evidence that Appellant had received a refund of any portion of such withheld wages.

42. The Minnesota Income Tax Return prepared by Appellee for Appellant for the year 1977 does not appear to provide the proper deduction for federal income taxes withheld or paid in 1977.

43. Appellant should be found to be domiciled in the State of Minnesota for the year 1977 and Appellant should be directed to recalculate Appellant's 1977 Minnesota Income Tax by providing the proper deduction for the federal income tax withheld or paid by Appellant in 1977 and by allowing a credit of $862.40 for Virginia State Income Taxes withheld from Appellant's income and no penalty should be assessed.

Conclusions of Law

1. Appellee is directed to recalculate the Minnesota Income Tax due from Appellant for 1977 on the basis of his being a Minnesota resident during 1977. Appellee should provide the proper deduction for federal income taxes withheld or paid by Appellant in 1977 and should allow a credit of $862.40 for state income taxes paid to Virginia. No penalty should be assessed. Interest on the net amount due shall be calculated from the due date for taxes due and payable for the year 1977.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

Dated: August 1, 1983

By the Court

Carl A. Jensen, Judge
Minnesota Tax Court

Memorandum

The first item in Appellant's Brief states the following:

"June 1975—Appellant abandons his Minnesota domicile."

The law is well settled that one always has a domicile and that the existing domicile continues until a new domicile is established.

It is also well settled that physical residence alone does not establish a new domicile without an intention to establish a new domicile. Also, intention alone does not establish a new domicile. Generally, there must be a clear demonstration of both acts and intention to establish a new domicile and this determination is not always easy especially where it is to one's financial benefit to prove that a change of domicile took place at some time in the past. In making this determination the Court will place more emphasis on acts than on statements made a considerable time after it is claimed that the change in domicile occurred.

Minn. Stat. 1976 § 290.17(1) provides that the income from personal services of all Minnesota residents shall be assigned to Minnesota for income tax purposes. A resident is "any individual domiciled in Minnesota and any other individual maintaining an abode therein during any portion of the tax year who shall not, during the whole year, have been domiciled outside the state." Minn. Stat. 1976 § 290.01, subd. 7. A Department of Revenue income tax regulation defines domicile:

Minn. Stat. 1976 § 290.17, subd. (2) also allocates income from intangibles to the state of domicile. If a taxpayer is domiciled in Minnesota, his income is subject to Minnesota income tax. See, e.g., Lloyd M. Gonner v. Com'r, Mn. T.Ct. #315 (July 8, 1948).

The domicile of any person shall be that place in which that person's habitation is fixed, without any present intentions of removal therefrom, and to which whenever absent, that person intends to return.

A person who leaves home to go into another jurisdiction for temporary purposes only, is not considered to have lost that person's domicile. But if a person moves to another jurisidiction with the intention of remaining there permanently or for an indefinite time as a home, that person shall have lost that person's domicile in the state.

* * *

The mere intention to acquire a new domicile, without the fact of physical removal, does not change the status of the taxpayer, nor does the fact of physical removal, without the intention to remain, change the person's status. The presumption is that one's domicile is the place where one lives.

An individual can have only one domicile at any particular time. *A domicile once shown to exist is presumed to continue until the contrary is shown. An absence of intention to abandon the domicile is equivalent to an intention to retain the existing one.* No positive rule can be adopted with respect to the evidence necessary to prove an intention to change a domicile, but such an intention may be proved by acts and declarations, and of the two forms of evidence, acts shall be given more weight than declarations. (Emphasis added)

13 MCAR § 1.6001.

The regulation goes on to list a number of factors to consider in determining whether or not a person is domiciled in the State of Minnesota. No single item in the list, by itself, establishes domicile. Among the factors relevant to the case at bar are the following:

1. Location of domicile for prior years.

* * *

4. Classification of employment as temporary or permanent.

5. Location of employment.

6. Location of newly acquired living quarters whether rented or owned.

* * *

10. Jurisdiction in which a valid driver's license was issued.

* * *

13. Jurisdiction from which any motor vehicle license was issued and the actual physical location of the vehicle.

* * *

15. Whether an income tax return has been filed as a resident or nonresident.

16. Whether the person has fulfilled the tax obligations required of a resident.

17. Location of any bank accounts, especially the location of the most active checking account.

18. Location of other transactions with financial institutions.

* * *

20. Location of business relationships and the place where business is transacted.

* * *

22. Address where mail is received.

23. Percentage of time (not counting hours of employment) that the person is physically present in Minnesota and the percentage of time (not counting hours of employment) that the person is physically present in each jurisdiction other than Minnesota.

* * *

The regulation and the case law make it clear that once a domicile is established it continues until another domicile has been established elsewhere. *Sarek v. Commissioner*, Mn. T.Ct. #2524 (April 9, 1979), *American Law Institute, Restatement, Conflict of Laws,* ch. 2, § 23. The taxpayer has the burden of proving that he established a new domicile outside of Minnesota. *McCutchan v. Commissioner*, Mn. T.Ct. #563 (January 20, 1956).

To establish a new "domicile" requires physical presence in a given jurisdiction coupled with an intention to make such place one's home. *Miller's Estate v. Commissioner of Taxation*, 240 Minn. 18, 59 N.W. 2d 925 (1953). The question of intent, as gathered from a person's acts and declarations is a question of fact. *In re Estate of Smith*, 242 Minn. 85, 89, 64 N.W. 2d 129, 131

(1954). A person's course of conduct is accorded greater weight than his self-serving declaration of domicile. *See, Texas v. Florida*, 306 U.S. 398, 425 (1939); *Sucomb v. Bovey*, 135 Minn. 353, 356, 160 N.W. 1018, 1019 (1917). "A mere place of residence and a few other contacts are not enough to establish a new domicile." *Sauk v. Commissioner, supra*. Domicile is not something easily abandoned or accidentally changed. *Lindberg v. Commissioner*, Mn. T.Ct. #339 (March 30, 1950), *McCutchan, supra*.

Continued existence of Minnesota domicile does not require continued physical presence in Minnesota or continued maintenance of an abode in Minnesota. In *Lindberg v. Commissioner*, Mn. T.Ct. #339 (March 30, 1950), the Tax Court said:

"Taxpayer's position apparently is, that since he didn't actually live in Minnesota . . . , he was not a resident and therefore no tax can be imposed on him by reason of residence in Minnesota. This understanding of the use of the word resident is understandable but is not the correct interpretation of the word as used in the income tax statutes defining resident . . . It is not correct to assume, as taxpayer does, that if one's place of abode is not Minnesota, he cannot be a resident of this State. Actual physical presence in one's place of abode, and one's domicile would, in most cases, and with individuals, be identical, but *one's domicile and one's place of abode need not necessarily be the same*." (Emphasis added)

In the present case, we are confronted with just such a situation. Appellant was undisputably domiciled in Minnesota until he began his employment with Computer Sciences Corporation in June, 1975.

Between June, 1975 and February, 1978, Appellant did not maintain his abode in Minnesota. Although Appellant contends that from June 1975 to February 1978 he was domiciled in Virginia, the facts show that during his absence from Minnesota, he did not establish a new domicile elsewhere. During this interval of absence, Appellant was employed on a permanent basis by Computer Sciences Corporation. Appellant expected that his work location would change as he was assigned to particular jobs and this in fact did occur. Appellant's first eighteen months were on assignment in Iran. Even Appellant does not claim that he was a domiciliary of Iran. Thereafter Appellant returned briefly to Minnesota. Appellant was then assigned to work at the Government Services Administration for nine months and at the Customs Bureau for three months. These were in Washington, D.C. While on assignment to Washington, Appellant lived first in apartments in Arlington, Virginia (one month) and then in Falls Church, Virginia.

Appellant returned to Minnesota in February, 1978, and has been employed and maintained his abode here to the present.

During his absence from Minnesota, Appellant did not establish a permanent home in Virginia. Rather, Appellant maintained his ties with Minnesota.

In January, 1976, (while in Iran) Appellant filed an application for extension of time for filing his United States Income Tax Return. On the application he stated that his last permanent address in the United States was 6508 62nd Avenue North, Minneapolis, Minnesota.

In January, 1977, Appellant returned from Iran. He returned to 6508 62nd Avenue North, Minneapolis, Minnesota. Appellant purchased a new car in Minneapolis. He financed the purchase with a loan obtained from GMAC in Minneapolis. The automobile was registered in Minnesota. It was insured with a Minnesota Company through a Minnesota agent. For all purposes Appellant gave 6508 62nd Avenue North, Minneapolis, Minnesota as his address.

At about this time, Appellant opened a savings account at Northwestern National Bank of Minneapolis, the institution where he continued to maintain his checking account.

On January 28, 1977 (after Appellant left Minneapolis for Virginia) Appellant filed his 1975 Minnesota Income Tax Return showing his address as 6508 62nd Avenue North, Minneapolis, Minnesota.

During the period of his absence, Appellant not only established new financial connections with Minnesota, but also retained his existing personal financial connections with the State. In 1968, Appellant opened a checking account with Northwestern National Bank in Minneapolis, and a share account with the Minneapolis Federal Employees Credit Union. Appellant maintained these accounts throughout his absence and continues them to the present time. Appellant maintained his loan from the Minneapolis Federal Employees Credit Union (obtained before 1975) and refinanced the loan in March, 1978.

Appellant held a Master Charge card from 1975 through 1978. The billing address was 6508 62nd Avenue North, Minneapolis, Minnesota. See Appellant's Answer No. 10 to Discovery Requests Set No. 1.

The address stated on his 1977 Federal Income Tax Return was the same.

Appellant maintained his other ties to Minnesota. Appellant kept his vehicle registered in Minnesota. Appellant maintained a Minnesota driver's license. He did not apply for Virginia registration or driver's license.

Throughout the period of his absence from Minnesota, Appellant admits that for all important matters he consistently gave his home address as 6508 62nd Avenue North, Minneapolis, Minnesota. He did so because he moved frequently and stayed in each location for only a short period of time.

Although Appellant claims to have been a Virginia domiciliary in 1977, he did not file a Virginia State Income Tax Return for that year.

In the case of *Blaine R. McCutchan v. Commissioner of Taxation*, Dkt. #563 (January 20, 1956), the Tax Court said:

"Even assuming that taxpayer was sincere in his intention never to again return to Minnesota, this would not in and of itself be sufficient for him to lose his Minnesota domicile. There would also have to be a simultaneous intent to establish a new domicile elsewhere. *The rule on the continuing quality of a domicile is quite clear.* American Law Institute, Restatement, Conflict of Laws, Chapter 2, Section 23, reads as follows:

A *domicile once established continues until it is superseded by a new domicile.*

Comment b . . . If a *domicile of choice is abandoned without acquiring a new domicile of choice*, the domicile of origin is not thereby revived, but *the last domicile of choice continues to be the domicile.*" (Emphasis added)

In the present case, Appellant has failed to show any evidence that he intended to make Virginia his new permanent home other than his allegations to that effect. Having failed to establish a new *domicile* in Virginia, Appellant remained domiciled in Minnesota, despite his verbal statements to the contrary. Appellant was a domiciliary of this State for 1977 income tax purposes.

Appellant states on page 5 of his brief that one of the reasons he did not change his car registration to the State of Virginia was that Virginia levies a personal property tax on motor vehicles. A person is not allowed to choose one domicile for one tax purpose and another domicile for another tax purpose. If in fact, Appellant's domicile had been Virginia for the entire year of 1977, it appears from his own brief that he should have paid Virginia personal property taxes on his vehicle.

The failure to change his driver's license is of some significance. Many states require that if one moves into the state for permanent residence that a new driver's license must be obtained often within 30 days of moving into the new state. If this is in fact the case with the State of Virginia and if Appellant had been questioned about this, he would have had no difficulty in establishing to the Virginia authorities that he was in fact domiciled in Minnesota and that his Virginia residence was temporary. It would appear to us that it would have been virtually impossible for the State of Virginia to prove that Virginia was his residence. We have found no physical acts done by the Appellant that would be inconsistent with a temporary residence in Virginia. All of the items listed by Appellant as an indication of change of domicile such as establishing new bank accounts, new mailing address, and other similar things, are not inconsistent with a temporary residence.

Appellant states that he attempted to file a State of Virginia tax return for 1977. We don't find this of importance since he would be required to file a State of Virginia tax return regardless of whether or not he had to file a Minnesota tax return. We do find it of some significance that Appellant indicated a Minnesota address on his 1977 Federal Income Tax Return.

We find no acts of Appellant that are inconsistent with a continuous domicile in the State of Minnesota and we find very little that would be consistent with a finding that Appellant had in fact changed his domicile. Under these circumstances, we are compelled to find that Appellant was domiciled in Minnesota during the year 1977.

C.A.J.

SUPREME COURT

Decisions Filed Friday, August 12, 1983
Compiled by Wayne O. Tschimperle, Clerk

CX-82-771 State of Minnesota v. Gary L. Bland, Appellant. Hennepin County.

State met its burden of proving that defendant committed an assault with a dangerous weapon and that he did not act in self-defense.

Defendant was not prejudiced by prosecutor's failure to call a witness referred to in the prosecutor's opening statement.

Trial court did not improperly restrict defense counsel's cross-examination of the victim about his prior acts of violence.

Prosecutor did not commit plain error in eliciting evidence that defendant's possession of the weapon he used, a sawed-off shotgun, was a separate crime.

Trial court did not err in its instructions on self-defense.

Affirmed. Amdahl, C.J.

SUPREME COURT

C6-82-1058 State of Colorado, on behalf of Jean E. McDonnell, petitioners, Appellants v. James T. McCutcheon, Washington County.

In a standard action under the Uniform Reciprocal Enforcement of Support Act (URESA), Minn. Stat. ch. 518C (1982), the responding court is not required to conform its support order to the provisions of a decree of a foreign state, but instead makes an independent award based on Minnesota law. The awarding ongoing support in the instant case is affirmed.

In a standard URESA action, the responding court does not grant an award of accrued arrearages under the foreign order; it may instead make an award for reimbursement of proved expenses reasonably paid by the obligee for past support of the child. The responding court in a standard URESA action has no power to modify the terms of the foreign decree. The denial of an award for accrued arrearages or past support in the instant case is affirmed.

Affirmed. Peterson, J.

C0-82-679, C1-82-867 State of Minnesota v. James Mallory, Appellant (C0-82-679) and Keith Mayes, Appellant (C1-82-867). Hennepin County.

Police did not violate defendants' Fourth Amendment rights in stopping automobile when police had particularized and objective basis for suspecting the occupant(s) of criminal activity.

Identification procedures used by police did not create a very substantial likelihood of irreparable misidentification of defendants.

Affirmed. Kelley, J.

C7-82-1523 Agri Credit Corporation v. Raleigh Liedman, Appellant. Kandiyohi County.

Where the maker of a promissory note agreed to pay reasonable costs of collection including attorney fees paid or incurred, the creditor was only entitled an award of reasonable attorney fees paid or incurred by it up to the time of entry of judgment. Such attorney fees should not be computed by reference to any arbitrary court schedule or policy.

Reversed and remanded. Kelley, J.

C2-82-893 State of Minnesota v. Gary L. Williams, Appellant. Hennepin County.

Evidence was sufficient to identify defendant as participant in burglary of house and armed robbery of residents of house.

Trial court's instructions on circumstantial evidence were adequate.

Trial court properly sentenced defendant to consecutive prison terms for robberies of two people even though different judges sentenced defendant's accomplices to concurrent terms for the same offenses.

Affirmed. Coyne, J.

STATE CONTRACTS

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

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

Department of Administration

Notice of Request for Proposals for Rental of Office Space

The Department of Administration desires proposals for the rental of up to 36,000 usable square feet of office space and approximately 2,000 usable square feet of warehouse space for the Department of Energy and Economic Development in the City of St. Paul.

Contact: Department of Administration
Real Estate Management Division
50 Sherburne Avenue, Room G-22
St. Paul, Minnesota 55155
Telephone: (612) 296-6674

Proposals must be submitted by 2:00 p.m. (CDST) on Friday, September 9, 1983.

State Designer Selection Board

Notice of Request for Proposal

To Architects and Engineers Registered in Minnesota

The State Designer Selection Board has been requested to select designer for three projects. Design firms who wish to be considered for these projects should submit proposals on or before 4:00 p.m., September 14, 1983, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.

2. All data must be on 8½" × 11" sheets, soft bound.

3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4. The proposal should consist of the following information in the order indicated below:

a) Number and name of project.

b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.

c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.

d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.

e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.

f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of $50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or

b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or

c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-address stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the board will retain one copy of each proposal submitted.

Any questions concerning the board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7a) PROJECT 11-83
Correct Water Infiltration Problems
Trafton Science Center
Mankato State University
Mankato, Minnesota
State University System

Allocation: $850,000.00 for construction, fees, testing and administration.

General Description: Numerous problem areas have been identified and described in a consultant prepared survey report titled "Trafton Science Center Water Damage — Phase II". This report identifies the sources of the leaks, other than roof and plaza areas, and the recommended solutions are included for each incident. The areas identified with leaks are masonry exterior walls, foundation, curtain walls, return air shafts, area well drainage, and roof top sheet metal ducts. Also included are 1982 cost estimates for the recommended solutions.

The consultant selected is expected to review the site conditions and survey report, concur with, or recommend alternate corrective measures before proceeding with final corrective construction program.

In the selection of the consultant, the board will expect the consultant to address:

1) Experience in similar type of projects.

2) Staff available for a timely completion of the documents and observation or the work.

7b) PROJECT 12-83
Roof Repairs and Replacements
Minnesota Correctional Facility
Stillwater, Minnesota
Department of Corrections

Allocation: $700,000.00 for construction, fees, testing and administration.

The project consists of major repairs and replacements of the roofs, gutters, rainleaders, and downspouts on the various buildings at the Minnesota Correctional Facility, Stillwater, Minnesota. These buildings include the Administration, Cell Hall A, Cell Hall B, Education Unit, Cell Hall C, Laundry, Operations, Security Center and the main corridor.

In the selection of a consultant the board will be considering the following:

1) The experience of similar types of projects including tile and flat roofs.

2) Staff available for a timely completion of the documents and observation of the work.

A fee of 6% is considered appropriate for this project.

7c) PROJECT 13-83
Expansion and Addition
Bierman Field Athletic Buildings
University of Minnesota
Minneapolis, Minnesota

Project Description: The expanding growth for the Mens and Womens Intercollegiate Athletics programs has stressed the capacity of the existing facility to a maximum. Since the original facility was intended to serve the Mens Intercollegiate Athletics alone, space has been relinquished and shared with the Womens Intercollegiate Athletics, Recreational Sports, and the School of Health Education. Approximately 11,000 assignable square feet in office space (17,800 GSF) is needed to properly house the present staff and the projected expansions. The construction budget for the new construction is $1,142,000.00 and includes some adaptive remodeling in the existing spaces. A feasibility study has shown that the roof of the existing building will support an additional floor where the new office space will be located.

Consultant Services: The consultant will be required to prepare, in cooperation with owner's Building Advisory Committee for the owner's approval, schematic design presentation proposals, design development drawings and specifications, and

construction drawings and specifications for public bidding. Construction phase services will include shop drawing reviews, construction observation, and the production of a set of "as-built" drawings.

Fees: The fees for the project will be negotiated on the basis of general guidelines for similar type projects.

Questions concerning Project 13-83 may be referred to Clint Hewitt at 373-2250.

Roger D. Clemence, Chairman
State Designer Selection Board

Department of Energy and Economic Development Division of Community Development

Juvenile Justice Grants

The Minnesota Juvenile Justice Advisory Committee and the Department of Energy and Economic Development announce the availability of $200,000 for Youth Intervention Projects to begin January 1, 1984 and end December 31, 1984. Applications must be submitted before October 7, 1983.

Application forms and other program information can be obtained by contacting:

Steve Gustafson
Juvenile Justice Grants
Division of Community Development
Department of Energy and Economic Development
100 Hanover Building
480 Cedar Street
St. Paul, Minnesota 55101
(612) 296-8243

City of Hermantown

Notice of Availability of Contract for Preliminary Engineering for the Design, Development and Engineering of the Rebuilding of Arrowhead Road, a Distance of Approximately 3 Miles

The City of Hermantown requires the services of a consulting engineer with extensive experience in the construction of roadways.

Proposed work includes:

1. Provide assistance to the City of Hermantown in determining final design of the project.

2. Prepare survey work.

3. Prepare project memorandum including project development report and location design study report as well as environmental analysis as needed and other required documents necessary for the City to file for construction funds and secure permits.

4. Prepare plans, specifications and estimates and other documentation as may be required.

5. Perform all required on-site staking, surveying, reporting, inspection and related services through construction completion.

6. Prepare documentation necessary for FHWA final approval.

Firms desiring consideration shall express their interest and submit their current federal forms 254 and 255 by 4:30 p.m., Wednesday, August 31, 1983. Four (4) copies must be submitted. Technical proposals will be requested from qualifying firms.

This is not a request for proposal. Send your response to:

Nancy Sirois, City Clerk
CITY OF HERMANTOWN
3161 Maple Grove Road
Hermantown, MN 55811
(218) 729-6331

Metropolitan Council
Developmental Disabilities Program

Notice of Request for Proposals for Developmental Disabilities Resource Developer/Vocational Trainer

Notice is hereby given that the Metropolitan Council's Developmental Disabilities Program is seeking two consultants under a one-year contract to provide services to developmentally disabled adults. The consultants will work as part of the Developmental Disabilities Community Work Training project and will be primarily responsible for recruiting job-training sites in Metro Area businesses and for initiating and supervising the training of project clients.

Qualifications include a college degree plus 2-3 years experience in vocational rehabilitation for people who have substantial physical or mental retardation handicaps. Should also have ability or experience to aggressively market the project to prospective employers.

The contract period is from October 1, 1983 through September 30, 1984. The selected consultants will be paid $22,000 to $28,000 depending on qualifications. The project has the potential of being renewed for two additional years. A copy of the Request for Proposals may be obtained from:

Toni Lippert, Manager
Developmental Disabilities Program
Metropolitan Council
300 Metro Square
St. Paul, Minn. 55101
Tel. (612) 291-6364

Minnesota Historical Society

Notice of Availability of Contract for Services for a Historic Preservation Survey

It is anticipated that the Minnesota Historical Society will require the services of a qualified contractor or consultant to conduct a State Historic Preservation survey of historic state-owned buildings.

The scope of the work will include updating the inventory of historic state-owned buildings, completing evaluations of significant structures, and developing a strategy for promoting the preservation of those structures deemed most significant. Work may also include writing *National Register* nominations for some structures.

The period of the contract will be from approximately November 1-June 30, 1984.

The monthly minimum will be approximately $1,623.00.

Requirements:

1. B.A. in history, historic preservation, architectural history, or closely related field and knowledge of Minnesota history.

2. A valid Minnesota Driver's license.

3. Demonstrated experience in the survey and evaluation of cultural resources. Documentation of evaluation experience should include a description of the kinds of resources evaluated and the specific nature of the evaluation applied to them.

4. Successful experience in completing a *National Register* nomination form as demonstrated by a completed form for a property that has been placed on the *Register* within the last five years.

The contractor or consultant will work a 40-hour week under the Assistant State Historic Preservation Officer. Some travel will be required.

Send resume, documentation of experience, references, and sample of *National Register* nomination to Gloria A. Thompson, Contract Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, MN 55101 by September 12, 1983.

Department of Public Safety
Office of Public Information

Notice of Availability of Television Public Service Filming Contract

The Department of Public Safety is seeking proposals for filming and producing four 30-second television public service announcements to increase Minnesota citizens' knowledge about public safety. Details of the plan for filming and production of the public service announcements are contained in a Request for Proposal. Copies of the Request for Proposal may be obtained at the Department of Public Safety, Office of Public Information, 318 Transportation Building, St. Paul, MN 55155.

Estimated cost of the contract is $8,000.

Final date for requesting the RFP is September 9, 1983.

Department of Transportation
Technical Services Division

Notice of Availability of a Contract for Preliminary Engineering—Environmental Study and Detail Design

The Minnesota Department of Transportation (Mn/DOT) requires the services of a qualified consultant to perform an environmental impact study; and to perform design and prepare construction plans for an approximate 17 mile segment of Trunk Highway 169 between Grand Rapids and Pengilly.

Firms desiring consideration shall express their interest and submit their current Federal Forms 254 and 255 and/or their brochure by twelve o'clock (12:00) midnight September 6, 1983.

This is not a request for proposal. Please send your response to:

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

Department of Transportation
Operations Division

Notice of Availability of Contract for Supportive Services Contractor

The Minnesota Department of Transportation (Mn/DOT) is seeking a qualified individual or organization to provide supportive services support to the On-the-Job Training Program, sponsored by the Federal Highway Administration (FHWA). This contractor will be responsible for locating, recruiting, and monitoring the hiring and training of skilled and unskilled people in the construction field, with particular emphasis on minorities and females. The contractor will be responsible for providing monthly and annual reports as to the accomplishments under the contract conditions, as prescribed in the *Federal Highway Program Manual 6-4-1-2*. This is not a request for a proposal. Those interested in being considered should send a response and resume no later than August 28, 1983, to:

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

The estimated cost for providing supportive services will not exceed a total cost to the state of $60,000. The services under this contract must be completed between October 1, 1983, and September 30, 1984.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration Procurement Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Administration of the Buy Minnesota Legislation

Notice is hereby given that the State Department of Administration is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the administration of the Buy Minnesota legislation. The promulgation of these rules is authorized by Minn. Stat. § 16.05, which empowers the Commissioner of Administration to make and amend rules and regulations, not inconsistent with law, respecting any matter within the scope of the powers and duties conferred by §§ 16.01 to 16.23.

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

Mr. James Weyandt
Director
Department of Administration
Division of Procurement
Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 296-2600 and in person at the above address.

All statements of information and comments shall be accepted until September 30, 1983. Any written material received by the State Department of Administration shall become part of the record in the event that the rules are promulgated.

Sandra J. Hale
Commissioner of Administration

Department of Commerce Financial Institutions Division

Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Governing the Operation of Credit Unions

Notice is hereby given that the Minnesota Department of Commerce, Division of Financial Institutions, is soliciting information and opinions from sources outside the agency and is preparing to promulgate amendments to existing rules relating to credit unions. Minn. Rules BD 135-149 are to be reviewed for any necessary or desirable modifications, with a particular view toward removing burdensome or unnecessary requirements.

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

Allyn R. Long, Assistant Commissioner
Division of Financial Institutions
500 Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 297-2750

All statements of information and comment shall be accepted until September 22, 1983. Any written material received by the Division of Financial Institutions shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Economic Security

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Minnesota Energy Assistance Program

Notice is hereby given that the Department of Economic Security is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the administration of the Low Income Home Energy Assistance Act (Title XXVI of the Omnibus Budget Reconciliation Act of 1981). The Department of Economic Security has been designated by Executive Order of the Governor (Executive Order No. 83-10) as the grantee of record for the federal Low Income Home Energy Assistance Block Grant. The department is authorized to promulgate rules under Minn. Stat. § 268.021 enacted by Minnesota Laws 1983, Chapter 268.

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

R. Jane Brown, Director
Minnesota Energy Assistance Program
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral comments or information concerning the subject matter will be accepted at public hearings being held throughout the state regarding the Proposed Plan for the Minnesota Energy Assistance Program—1984. Persons or interested groups wishing to make oral comments may attend any of the public hearings as published in the August 8, 1983 issue of the *State Register* (pages 206 and 207). Notice is given that the hearings scheduled for St. Paul on September 1, 1983 will be held at 2-4 & 7-9 p.m. and not as published.

Statements of information and comments will be accepted until September 7, 1983. Any written material or oral presentation received by the Department of Economic Security shall become part of the record in the event that rules are promulgated.

Ethical Practices Board Advisory Opinion #84

Approved by the Ethical Practices Board on August 11, 1983

Issued to:

Hon. Mark Andrew
Hennepin County Commissioner
Board of Hennepin County Commissioners
2400 Government Center
Minneapolis, MN 55487

RE: Hennepin County Disclosure

Summary

84. Contributions to and payments from a legal defense fund are not subject to the registration and reporting requirements of Minn. Laws 1980, Chapter 362.

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

State Board of Medical Examiners

Notice of Intent to Solicit Outside Opinion Concerning a Proposed Rule Regulating Advertising by Physicians and Osteopaths

Notice is hereby given that the Minnesota Board of Medical Examiners is considering the adoption of a rule which will establish regulatory standards for those physicians and osteopaths seeking to advertise. The rules establish standards and prohibitions for advertising, the responsibilities the physician must assume in advertising, and the penalties for not complying with this rule.

The proposed rule is authorized by Minnesota Statutes § 147.021, which prohibits any misleading, deceptive, or fraudulent representations in the practice of medicine; physicians promoting that they have superior skills; or advertising any positive cure of a disease.

All interested or affected persons or groups may submit information on this subject. The rule may be revised on the basis of comments received. Any written material received will become part of the record of any hearings held on this subject. Written or oral information and comments should be addressed to:

Arthur W. Poore, Executive Secretary
Minnesota Board of Medical Examiners
717 S.E. Delaware Street, Suite 352
Minneapolis, Minnesota 55414

All statements of information and comments must be received by October 1, 1983.

Arthur W. Poore
Executive Secretary

Metropolitan Council

1984 Work Program and Budget

Notice of Public Hearing

The Metropolitan Council will hold a public hearing Monday, September 12, at 5 p.m. in the Council Chambers, 300 Metro Square Building, 7th and Robert Sts., St. Paul, Minn. 55101, on its proposed work program and budget for 1984. The council must decide on the work program and budget, and the amount that must be raised from property taxes to support the budget, by October 1. All interested people are encouraged to attend the hearing and offer comments. People may register to speak in advance by contacting Shirlee Smith of the council's communications staff at 291-6421. Questions on the proposed budget should be directed to Alan Morris of the council's budget staff, at 291-6446. Copies of the Proposed 1984 Work Program and Budget are available free of charge from the council's Communications Department, at 291-6464. Copies are also available for public inspection beginning Aug. 15 at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis

St. Paul Public Library
Science and Industry Room
90 W. Fourth St.
St. Paul

Anoka County Library—Blaine Branch
707 Highway 10
Blaine

Carver County Library—Chaska Branch
314 Walnut St.
Chaska

Dakota County Library—Burnsville Branch
1101 W. County Rd. 42
Burnsville

Hennepin County Library—Southdale Branch
7001 York Av.
Edina

Ramsey County Library—Roseville Branch
2180 N. Hamline Av.
Roseville

Scott County Library—Shakopee Branch
235 S. Lewis St.
Shakopee

Washington County Library—Park Grove Branch
7520-80th St. S.
Cottage Grove

Gerald J. Isaacs, Chair
Metropolitan Council

Public Utilities Commission

Notice of Intent to Solicit Outside Opinion Regarding Amendments to Existing Rules Governing Cogeneration and Small Power Production

Notice is hereby given that the Minnesota Public Utilities Commission (commission) is seeking information or opinion from sources outside the agency in preparing to promulgate amendments to its rules governing cogeneration and small power production (4 MCAR §§ 3.0450-3.0462). The amendment of these rules is authorized by Minn. Stat. § 216B.08 (1982) and § 216B.164, as amended by Minn. Laws 1983, ch. 301, §§ 166-171. The latter section specifically authorizes the commission to promulgate rules applicable to transactions between cogeneration and small power production facilities and electric utilities.

The commission requests information and comments concerning the need for and nature of possible amendments to these rules. Certain amendments, including the adoption of a uniform statewide form of contract for use between utilities and a qualifying facility having less than 40 kilowatt capacity, are necessitated by amendments to Minn. Stat. § 216B.164 adopted in the 1983 session of the Minnesota Legislature. Pursuant to authority found in those amendments, the commission has proposed temporary rules amending the existing cogeneration rules. The temporary rules were published in the *State Register* of July 25, 1983, at page 103. The commission is contemplating proposing permanent rules that are similar to the temporary rules found there. The commission thus intends to consider comments upon the temporary rules as well as comments submitted in response to this notice in proposing permanent cogeneration rules.

Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Randall D. Young
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral comments, suggestions or questions will be received during regular business hours over the telephone by Stuart Mitchell at (612) 296-8662 or Paul Schweizer at (612) 296-7125 and in person at the above address.

All statements of information, comment and suggestion shall be received until September 30, 1983. Any written material received by the commission shall become part of the record in the event that any amendments to the rules are proposed for adoption.

Public Utilities Commission

Notice of Intent to Solicit Outside Opinion Regarding Amendments to Existing Rules Governing Automatic Adjustment Charges

Notice is hereby given that the Minnesota Public Utilities Commission (commission) is seeking information or opinion from sources outside the agency in preparing to propose amendments to its rules governing automatic adjustment charges (PSC 390-399). The authority to adopt and amend these rules is found in Minn. Stat. §§ 216B.03, 216B.05, 216B.08, 216B.09, and 216B.16, subd. 7. The latter section specifically authorizes the commission to permit utilities to file rate schedules containing provisions for the automatic adjustment of charges for retail utility service in direct relation to changes in federally regulated wholesale rates for energy delivered to interstate facilities or fuel used in the generation of electricity or the manufacture of gas.

The commission requests additional information and comments concerning the need for and nature of possible amendments to its existing rules. In response to a previous solicitation published at 7 S.R. 1000 (December 27, 1982), the commission has drafted certain proposed changes, which are found in Appendix A to this notice. Interested or affected persons or groups may submit statements of information or comment orally or in writing on these proposed changes as well as submit additional changes that such persons wish the commission to consider.

Written statements should be addressed to:

Randall D. Young
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral comments, suggestions or questions will be received during regular business hours over the telephone by Harold Nicholson at (612) 296-7105 and in person at the above address.

All statements of information and comments shall be received until September 15, 1983. Any written material received by the Commission shall become part of the record in the event that any amendments to the rules are proposed for adoption.

Proposed Changes to Automatic Adjustment of Charges (PSC Rules 390-395)

PSC 390 Definitions. For the purpose of rules 390-395, the following definitions shall apply:

A. "Annual sales volume" is the sum of the Mcf, ~~or~~ Ccf or Btu of gas delivered during the most recent 12 months of the 14 month period preceding a change in the city gas rate or end of the heating season for which actual data is available.

B. "Annual demand sales volume" is the annual sales volume adjusted by an average percentage change in sales computed over the preceding ~~3~~ 4 year period, normalized for weather. Annual demand sales volume shall include interruptible sales to the extent that demand cost is incurred to service interruptible customers.

C. "Base cost" is the cost of fuel consumed in the manufacture of gas or generation of electricity and purchased gas or purchased power in the base period expressed as a cost per kilowatt hour sold or cost per Mcf, ~~or~~ Ccf or Btu sold.

D. "Base period" is the 12 month period during which the automatic adjustment of charges is set at zero.

E. "City gate rate" is the demand or commodity rate charged a distribution gas utility by its supplier. It refers to the cost of gas at the point at which the distribution utility takes title to the gas.

F. "Cost of energy purchased" is the cost of purchased power and net interchange defined by the Minnesota Uniform System of Accounts—Class A and B electric utilities, Account 555 and purchased under federally regulated wholesale rates for energy delivered through interstate facilities. All electric public utilities shall use this definition regardless of class.

G. "Cost of fuel consumed in the generation of electricity" is the cost of fossil and nuclear fuel.

H. "Cost of fossil fuel" is the current period withdrawals from Account 151 as defined by the Minnesota Uniform System of Accounts—Class A and B utilities. All electric public utilities shall use this definition regardless of class.

G. "Cost of fuel consumed in the generation of electricity" is the cost of fossil and nuclear fuel.

H. "Cost of fossil fuel" is the current period withdrawals from Account 151 as defined by the Minnesota Uniform System of Accounts—Class A and B utilities. All electric public utilities shall use this definition regardless of class.

I. "Cost of nuclear fuel" is the current period charges and credits to Account 518, of the Minnesota Uniform System of

Accounts—Class A and B electric utilities excluding any expenses for the cost of fossil fuel. All electric public utilities shall use this definition regardless of class.

J. "Cost of fuel consumed in the manufacture of gas" is the withdrawals, during the heating season, from Account 151 as defined by the Minnesota Uniform System of Accounts—Class A and B gas utilities. All gas public utilities shall use this definition regardless of class.

K. "Cost of purchased gas" is the cost of gas as defined by the Minnesota Uniform System of Accounts—Class A and B gas utilities, Account 804, 808 and 809 and purchased under federally regulated wholesale rates for energy delivered through interstate facilities. All gas public utilities shall use this definition regardless of class.

L. "Current period" is the most recent ~~two~~ three month moving average used by electric utilities in computing an automatic adjustment of charges. Upon approval of the commission, a self billing utility may use a longer period, not to exceed 12 months, provided that the provision contains a settlement procedure. ~~All electric utilities shall use this definition.~~

M. "Heating season" is the period from October 1 to April 30.

N. "Kilowatt-hour sales" is the kilowatt-hour delivered during the current or base period less interchange sales. This is the divisor used to obtain current period cost and base period cost per Kwh in PSC 392 B.

O. "Prime interest rate" means the average of the daily prime lending rates offered to preferred customers at the largest bank in the Ninth Federal Reserve District during the period. The largest bank is that bank with the greatest total outstanding deposits as of the end of the calendar year preceding the notice of change in rates.

P. "Public utilities" is as defined by Section 2, Subdivision 4 of the Minnesota Public Utilities Act.

PSC 391 Applicability and types of automatic adjustment of charges.

A. The commission shall permit the filing of rate schedules containing provisions for the automatic adjustment of charges provided such provisions conform to PSC 392-395.

B. PSC 390-395 shall be applicable to all classes of public utilities.

C. Provisions for automatic adjustment of charges shall encompass:

1. Changes in cost resulting from changes in the federally regulated wholesale rate for energy purchased and changes in the cost of fuel consumed in the generation of electricity. This provision is entitled electric energy adjustment.

2. Changes in cost resulting from changes in the federally regulated wholesale rate for purchased gas and changes in the cost of fuel consumed in the manufacture of gas. This provision is entitled purchased gas adjustment.

PSC 392 Electric energy adjustment. The computations of the automatic adjustment to charges shall conform to the procedures set forth below:

A. The amount of the billing period adjustment to charges shall be determined by extending Kwh of sales in the billing period by an adjustment per Kwh. The adjustment per Kwh or the amount of the adjustment shall be stated on the customer's bill to comply with PSC 313.

B. The adjustment per Kwh shall be the sum of the current period cost of energy purchased and cost of fuel consumed per Kwh less the base cost per Kwh.

C. The adjustment of charges shall be made in the next complete billing period succeeding the determination of the adjustment per Kwh provided the adjustment has been filed as defined by PSC 394 B. The adjustment factor shall be calculated monthly~~.~~, ~~E~~except~~,~~ that upon commission approval, a self billing utility may calculate the adjustment less frequently but at least annually and must provide for a settlement procedure. The adjustment must be applied each month. The adjustment amount shall be rounded such that the projected recovery is within 2% of the change in total cost.

PSC 393 Purchase gas adjustment provision. The computation of the automatic adjustment to charges shall conform to the procedures set forth below:

A. The amount of the billing period adjustment to charges shall be determined by extending Mcf, ~~or~~ Ccf or Btu sales in the billing period by an adjustment per Mcf, ~~or~~ Ccf or Btu. The adjustment per Mcf, ~~or~~ Ccf or Btu or the amount of the adjustment shall be stated on the customer's bill to comply with PSC 313.

B. The adjustment per Mcf, ~~or~~ Ccf or Btu is the sum of the commodity adjustment, demand adjustment and manufactured gas adjustment as computed below:

1. The commodity adjustment is the difference between the commodity cost which results from a change in the city gate rate and the commodity base cost. To properly reflect adjustment per Mcf, ~~or~~ Ccf or Btu billed, the divisor for a particular class

of customer must include total sales volume delivered to that class of customer. The adjustment shall be applied to billings after the effective date of the commodity rate change provided the adjustment has been filed as defined by PSC 394 B.

2. The demand adjustment is the difference between the annual demand cost which results from a change in the city gate rate and the demand base cost. In the event the demand city gate rate does not change the demand adjustment shall be recalculated for each 12 month period from the date of the last change. The adjustment shall be computed on the basis of annual demand sales volume and applied to billings after the effective date of the demand rate change provided the adjustment has been filed as defined by PSC 394 B.

3. The manufactured gas adjustment is the difference between the cost of propane and other fuel consumed in the manufacture of gas during the heating season and the manufactured gas base cost. The manufactured gas adjustment shall be computed annually for the heating season ending April 30 of each year on the basis of firm annual sales volume adjusted to the extent manufactured gas is used to serve interruptible customers. The cost of manufactured gas shall be applied to interruptible customers. The adjustment shall be applied to billings during the next 12 month period commencing on June 1 of each year provided the adjustment has been filed as defined by PSC 394 B.

C. Refunds and interest thereon received from the suppliers of purchased gas which are attributable to the cost of gas previously sold shall be refunded by credits to bills or check within a period not to exceed ~~12 months~~ 90 days from the date the refund is received from a supplier, provided the refund amount per customer is equal to or greater than $.01. Upon approval of the commission, refunds of less than $.01 per customer may be retained by the utility and separately accounted for until such time as the balance, together with additional supplier refunds, would produce a refund of $.01 or more per customer. Refunds shall be made to each customer class on the same basis as previously charged to customers. The utility shall add interest to any unrefunded balance at the prime interest rate.

PSC 394 Filing requirements and approvals electric energy and purchase gas adjustments.

A. All public utilities shall file annually on ~~October 31~~ August 1 of each year, the procurement policies for selecting sources of fuel and energy purchased and dispatching policies, if applicable, and a summary of actions taken to minimize cost.

B. Whenever a public utility changes its automatic adjustment of charges, the utility shall prior to effective date, file the following:

1. A summary of the computation of the adjustment.

2. An explanation of significant changes between the base cost and current cost. Changes for electric utilities shall be quantified as to price, mix, thermal efficiency and distribution loss. Changes for gas utilities shall be quantified as to price and mix changes.

3. A computation of standard cost for the current reporting period, if available. The standard cost for this computation may be either the planned or budgeted cost of fuel or simulation of the cost of fuel under normal operating and purchasing limits for the adjustment period or current period.

C. Automatic adjustment of charges shall be provisionally approved and may be placed into effect without commission action, but subject to the conditions specified in PSC 394 D and E.

D. Errors made in adjustment must be refunded by check or credits to bills to the consumer in an amount not to exceed the amount of the error plus interest computed at the prime rate upon the order of the commission provided that:

1. Such order is served within 90 days after the receipt of the filing defined in rule PSC 394 B or at the end of the next major rate proceeding, which ever is later.

2. The amount of the error is greater than 5% of the corrected adjustment charge.

E. The commission may upon complaint or upon its own motion, after appropriate investigation, notice and hearing, issue an order to fix at current levels, discontinue or modify an automatic adjustment provision for an individual utility.

F. By August 1 of each year, all gas and electric utilities shall:

1. Submit to the commission an annual reporting by billing cycle of all automatic adjustment charges for each customer class for the prior year commencing July 1 and ending June 30. This report shall include the:

a. Commission approved base coat of fuel or gas.

b. adjustment units charged customers from each type of energy cost; i.e., (nuclear, coal, purchased power, demand, commodity, manufactured gas, Btu, volumetric, Therms, Dekatherms).

c. adjustment units, by gas supplier, which were used to bill the utility during the reporting period.

d. total cost of fuel or gas delivered to customers.

e. revenues collected from customers for energy delivered.

f. amount of supplier refunds received as defined by PSC 393 C.

g. amount of refunds credited to customers.

2. Submit to the commission an independent auditor's report evaluating all accounting for automatic adjustments for the prior year commencing July 1 and ending June 30.

3. Submit to the commission a one year and a five year projection of fuel and gas costs by month by energy source.

4. Provide a copy of the reports defined in PSC 394 A and F to all intervenors in the prior two general rate cases.

PSC 395 Implementation.

A. Existing automatic adjustment provisions in effect on the effective date of these rules which will not result in adjustment amounts materially greater than those determined by PSC 390 to 395 shall continue in effect until the commission upon its own motion or upon complaint, after appropriate notice and hearing, shall order otherwise.

B. Adjustments made pursuant to automatic adjustment provisions in effect on the effective date of these rules which may result in adjustment amounts materially greater than those determined by PSC 390 to 395 shall be frozen by the utility at the level of charges in effect at the effective date of PSC 390 to 395. The existing level of any such automatic adjustments shall, on the effective date of PSC 390 to 395, be submitted to the Department of Public Service within 30 days.

C. When a utility proposes new or revised electric energy or purchased gas adjustment provisions, the proposal shall be deemed a change in rates and reviewed according to commission rules and practices relating to utility rate changes.

D. If existing automatic adjustments of charges are continued under the provision of PSC 395 A then the filing requirements of PSC 394 B shall apply.

PSC 396-399 Reserved for future use.

Errata

At 8 S.R. 206-207, Department of Economic Security Notice of Public Comment Period and Hearing on Proposed State Plan for the Minnesota Energy Assistance Program—1984, the time of the St. Paul meeting is incorrectly given as 2-3 & 7-9 p.m. The correct time for that meeting is 2-4 & 7-9 p.m.

STATE OF MINNESOTA

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

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

_____ Annual subscription $130.00
_____ Trial subscription (13 weeks) $40.00
_____ Single copies $3.25 each

Minnesota Guidebook to State Agency Services 1982-83 A 750-page reference guide to services provided by Minnesota agencies.

_____ Single copy $9.00 + $.54 sales tax = $9.54* each

Session Laws of Minnesota—1982. One volume. Laws enacted during the 1982 legislative session. Inquire about back volumes. $35 + $2.10 (sales tax) = $37.10.*

State Register Binder. Durable 3½ inch, forest green binders imprinted with the *State Register* logo.

_____ ***State Register Binder*** $6.50 + $.39 (sales tax) = $6.89* each

State Register Index. Contains cumulative findings aids to Volume 6 of the *State Register*, including MCAR Amendments and Additions, Executive Orders List, Executive Orders Index, Agency Index, Subject Matter Index. _____ Single copy $5.00

Worker's Compensation Decisions. Volume 35. Selected landmark decisions of the Worker's Compensation Court of Appeals. Available by annual subscription, with quarterly update service. _____ Annual subscription $65.00

Minnesota Outdoors Catalog—1983. Complete listing of material on the Minnesota outdoor activities. Bikeways, canoeing, county, lake and other maps. Books, charts, rules, laws, posters and more.

_____ FREE COPY

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Minnesota Department of Revenue. Please enclose full amount for items ordered. Make check or money order payable to "State of Minnesota."

EACH ORDER MUST INCLUDE ADDITIONAL $1.50 FOR POSTAGE AND HANDLING.

Name _____

Attention of: _____

Street _____

City _____ State _____ Zip _____

Telephone _____

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

LI-84-003-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed
Rules Governing Qualified
Rehabilitation Consultants
and Rehabilitation Vendors.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Administrative Hearings at 9:00 a.m. on Friday, September 23, 1983 in the Auditorium of the St. Paul Technical Vocational Institute, 235 Marshall Avenue, St. Paul, Minnesota, pursuant to a Notice of Hearing, dated August 4, 1983. H. Theodore Grindal from the firm of Opperman and Paquin, Attorneys at Law, 2200 Washington Square, 100 Washington Avenue South, Minneapolis, Minnesota 55401, appeared on behalf of the Minnesota Department of Labor and Industry (hereinafter "Agency"). Mr. Grindal had previously been on the staff of the Office of the Attorney General and because of his familiarity with this subject matter, was retained on contract to serve as counsel for this hearing. Also appearing on behalf of the Agency were: Commissioner Steven H. Keefe; Gladys Westberg, Director of Rehabilitation Services; Robert Brezinski, Rehabilitation Specialist; and Mark McCrea, Rehabilitation Specialist. The hearing continued until all interested groups or persons had had an opportunity to testify concerning the adoption of the proposed rules.

The Commissioner of the Department of Labor and Industry 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. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, 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, the Commissioner 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. § 14.15, subd. 4 (1982), as amended by Minn. Laws 1983, Ch. 210, § 7.

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 he 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 he 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. § 14.16 (1982).

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 4, 1983, the Agency 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.

2. On August 22, 1983, a Notice of Hearing and a copy of the proposed rules were published at 8 State Register 264-273.

3. On August 22, 1983, the Agency mailed the Notice of Hearing to all persons and associations who had registered their names with the Agency for the purpose of receiving such notice.

4. On August 30, 1983, the Agency filed the following documents with the Hearing Examiner:

(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 Agency personnel who will represent the Department of Labor and Industry 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) All materials received following a Notice of Hearing published on November 22, 1982 at 7 State Register 782. This hearing was scheduled for the adoption of proposed rules governing qualified rehabilitation consultants and rehabilitation vendors but, as discussed infra, was never held.

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 September 30, 1983 for the receipt of written comments and statements from the public. The Agency's final submission was filed on October 5, 1983, three business days following September 30.

6. In addition to the mailed and published notice set forth above, the Agency sent notice of the hearing to qualified rehabilitation consultant firms

and rehabilitation vendors located in Minnesota. The Hearing Examiner finds that the Agency has complied with the requirements of Chapter 188, 1983 Laws (to be codified as Minn. Stat. § 14.115).

7. At hearing, the Agency submitted further amendments to the proposed rules, along with a supplementary statement of need and reasonableness. Many of these additional amendments were made in response to public comments submitted prior to the hearing. Subsequent to the hearing, the Agency again submitted additional amendments which were made in response to the public comments made at the hearing and in written comments received after the hearing. All of these amendments to the proposed rules are attached hereto as Exhibit A and should be read together with the rules as published in the State Register.

Many sections of the proposed rules were not commented on by the public or public comments have been responded to by the Agency in the form of amendments referenced above. Only portions of the proposed rules about which issues of need, reasonableness or statutory authority have been addressed but remain unresolved will be specifically discussed in this Report. Except as hereinafter modified, the Hearing Examiner finds that the Agency has demonstrated the need for and reasonableness of the proposed rules, as amended, by an affirmative presentation of facts in the record.

Additionally, the record contains several public comments which go beyond the scope of this rule-making proceeding and/or speak to existing rules which are not at issue herein. These comments will not be addressed in this Report but are referred to the Agency for consideration in future rule-making proceedings.

BACKGROUND

8. On January 21, 1980, rules were promulgated to implement Minn. Stat. § 176.102, which included the necessary requirements for a person to become a qualified rehabilitation consultant (QRC) or registered rehabilitation vendor (RRV). During the last two legislative sessions, a number of concerns were expressed regarding rehabilitation services and fees, and qualifications for rehabilitation consultants and vendors. In 1981, Minn. Stat. § 176.136 was amended to require the Commissioner of Insurance to report to the legislature by January 15, 1983 regarding the delivery of medical and health care services, including rehabilitation services, under the Minnesota Workers' Compensation Law. The Commissioner of Insurance was also directed to conduct a study of the qualifications and background of rehabilitation consultants and vendors providing services under Minn. Stat. § 176.102 for the purpose of determining whether the professional standards required were sufficient. In addition, possible conflicts of interest and suggested safeguards were to be addressed.

In the spring of 1982, the Commissioner of Labor and Industry appointed two task forces consisting of employers, insurers, labor representatives, attorneys and rehabilitation consultants. One task force studied the area of standards of performance for rehabilitation providers and the other task force studied standards for fees and services. Both groups developed recommendations for proposed rules which were submitted to the Rehabilitation Review

panel and the Commissioner of Labor and Industry. These recommendations were proposed for adoption by the Agency and a public hearing was scheduled for Tuesday, December 20, 1982. Because of adverse weather conditions, that rule hearing was cancelled. After a reconsideration of the proposed rules in light of the comments received, the rules were withdrawn by the Agency for additional revisions. Such revisions were made and this proceeding ensued.

STATUTORY AUTHORITY

9. Statutory authority to promulgate these proposed rules is contained in Minn. Stat. § 176.102, subds. 10 and 12 and 1983 Laws, C. 290, § 165 (to be codified as Minn. Stat. § 176.83).

R.S. 14 - QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT

10. R.S. 14.A.1 and 2. sets forth the qualifications necessary for an individual to apply for and gain the status of QRC. The fields of counseling and guidance, psychology, and social work have been added as acceptable disciplines whose curricula are believed to most closely resemble the skills necessary to function as a QRC. Additionally, these sections require that prior to becoming a QRC, an individual must spend at least one year of on-the-job training as a QRC intern. Finally, the Agency proposes to delete three sections of the current rule, one of which had allowed three-year degree or diploma registered nurses to become QRC's. The effect of this deletion is that an individual must hold at least a four-year baccalurate degree to become a QRC.

In a written comment, International Rehabilitation Associates, Inc. (IRA) objected to the deletion which would prevent nurses holding a three-year diploma or an Associate of Arts degree from qualifying as a QRC. IRA stated that its experience has been that nurses holding such degrees have worked well in the past and are qualified to render consulting services.

The Minnesota Association of Rehabilitation Nurses expressed a similar concern in the following statement:

> All registered nurses in the State of Minnesota are required to complete a specializesd academic and practical program to qualify for the State Board Examination. We feel if a nurse is to be registered by the State and employed by medical providers to carry out patient care, they should likewise be qualified to care for the industrially injured. The proposed standards state, QRC's are to ". . . provide those services for which the QRC or vendor has professional qualifications and competencies." By eliminating the new registered nurse who does not have a baccalurate degree the proposed rules are in fact stating that the registered nurse does not qualify to care for the industrially injured.

The Alliance of American Insurers (AAI) also objected to the elimination of nurses holding less than baccalurate degrees from eligibility to become a QRC. The AAI predicts that the proposed rule would increase costs and hinder the movement of diploma nurses from other states.

The Minnesota Nurses Association (MNA), represented by Mary Absolon, RN, MSN, strongly supported adoption of the baccalurate degree requirement. The MNA stated that:

> This is a reasonable and fair expectation since the same educational criteria already required of QRC's who are occupational therapists and vocational rehabilitation personnel is just being extended to cover RNs. MNA also points out that nothing in these rules prevents RNs from practicing in rehabilitation nursing for a rehabilitation vendor, hospital, or other health setting. These proposed rules only apply to a small number of RNs who are - or want to become - QRCs.

Finally, the MNA points out that the baccalurate degree requirement is a continuing trend in nursing education.

The Agency listed the following factors in support of the proposed rule: (a) the increased complexities of the law and the field of rehabilitation; (b) the desire to increase professionalism in the field; (c) the difficulty in consistently evaluating applicants' work experience to determine whether or not they are qualified to become a QRC; and (d) a desire for consistent standards to protect applicants from arbitrary consideration and injured workers from unqualified practitioners.

It is undoubtedly true that certain individuals would and do perform well as QRCs without a baccalurate degree. However, the Hearing Examiner finds that the Agency has demonstrated that the proposed rule is needed and reasonable. The rule responds to a felt need for increased professionalism in an increasingly complex field for the protection of injured employees. Additionally, the Agency states a legitimate purpose in its desire to achieve administrative consistency in determining the qualifications of applicants. Finally, the "grandfather" provision contained in R.S. 14.D. recognizes the qualifications of current QRCs, thus minimizing the impact of the new standard by applying it only to prospective QRCs.

11. R.S. 14.D. The proposed addition to this section provides that QRCs who are registered on the effective date of the amendment shall be deemed to meet the standards contained in R.S. 14. That is, those registered QRCs who do not meet the educational requirements of the new rule, are "grandfathered in". QRC interns, however, would not receive the same treatment.

The Minnesota Association of Rehabilitation Providers (M.A.R.P.) expressed its concern that QRC interns who have already made a substantial investment in their careers may be precluded from qualifying for registration. M.A.R.P. recommended "grandfathering" existing QRC interns.

The Agency stated that existing QRCs have been evaluated over a period of time and have proven themselves to have a minimum level of professionalism which will serve the purpose of protecting the public and fulfilling the goal of maintaining a high degree of professionalism in the field. The same cannot be said about QRC interns who have likely had very little experience and have not been fully evaluated. Moreover, the time invested by the interns is not lost by the rule. If an intern elects to gain required additional academic training, the time already spent will count toward the one year of experience necessary to achieve full-fledged QRC status.

The Hearing Examiner finds that the proposed rule has been shown to be both needed and reasonable. The rule fulfills both the legislative directive and purpose inherent in the rules that the public should be adequately protected.

R.S. 15. - PROCEDURE FOR QUALIFYING AS REHABILITATION CONSULTANT

12. R.S. 15.D. provides that if a QRC does not provide direct case service or supervise one who does so for a period of one year, registration is automatically suspended. This section received a great deal of negative public comment. The main objection was that the effect of the provision is to force QRCs who had been absent from the field for one year for a legitimate reason to repeat the internship or obtain substantial additional education in order to be reinstated. This was said to be too rigid, unnecessary and unfair.

The Agency responded by amending the provision after the hearing as set forth in Exhibit A. In the amended version, absence from the field for one year would still result in automatic suspension, however, a QRC could be reinstated by providing verification of attendance at the annual update sessions, fulfillment of continuing education requirements and by completing an introductory training session. The Agency supported these requirements by stating that they are necessary to ensure a grasp of the basics before the resumption of continued practice in the rehabilitation field.

As stated above, repeating an internship or requiring substantial additional education would have been extremely burdensome and is justifiably eliminated in the amended version. However, requiring a "suspended" QRC to demonstrate that he/she has kept current in the profession and has a working knowledge of the basics are appropriate to ensure competency. Therefore, the Hearing Examiner finds that the proposed rule, as amended, has been shown to be both needed and reasonable by the Agency.

13. R.S. 15.E. sets forth a disciplinary procedure which grants the Commissioner discretion as to the form of discipline he may impose. Under the current rule, the Commissioner has the authority to revoke the registration of a QRC but no specific authority to discipline less severely. The proposed rule provides a range of discipline which the Commissioner may impose. Initially, the rule states that "the Commissioner may review the activities of registered qualified rehabilitation consultants and vendors to determine if they are in compliance with all rehabilitation services' rules." (Emphasis added). The Agency supported this language as follows:

> . . . it is reasonable and needed for the commissioner's review to be discretionary in view of the fact that he does not have the resources to constantly monitor every act taken by currently licensed rehabilitation providers. He must use his discretion for purposes of allocating enforcement resources to determine when it is appropriate to look with greater scrutiny at individual rehabilitation provider activities which may be in violation of the rules.

Minn. Stat. § 14.02, subd. 4 defines the term "rule" as "every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by it . . .". This definition has been construed by the Attorney General's office to prohibit the adoption of rules which give "unbridled discretion" to administrative officials. As proposed, this rule gives the Commissioner unfettered discretion whether or not to review the

activities of QRCs and vendors. Consequently, this provision is a violation of a substantitive requirement of law pursuant to Minn. Stat. §§ 14.14, subd. 2 and 14.50(ii).

In order to correct this defect, the language could be amended as follows:

> The Commissioner shall review the activities of registered qualified rehabilitation consultants and vendors when he has grounds to believe that they may not be in compliance with all rehabilitation services' rules.

Such an amendment would deal with the Agency's concerns regarding allocation of resources and it would cure the defect which currently exists in the rule. Additionally, such an amendment would not constitute a substantial change from the rule as proposed.

An alternate way to correct the above-defect would be to eliminate this provision in its entirety. The Commissioner has sufficient statutory authority to review the activities of QRCs and vendors whenever he so desires.

14. R.S. 15.E.1. sets forth a procedure which the Commissioner must follow when he becomes aware of an alleged rule violation by a QRC or vendor. It provides:

> If the qualified rehabilitation consultant or vendor does not request an administrative conference, the commissioner may order that a conference occur. (Emphasis added.)

In its current form, the definition gives the Commissioner unfettered discretion as to when he may call an administrative conference. As discussed above, this provision constitutes a violation of a substantitive requirement of law pursuant to Minn. Stat. §§ 14.14, subd. 2 and 14.50(ii).

The Agency argues that this portion of the rule is needed and reasonable because:

> If a frivilous complaint has been tendered regarding a rehabilitation provider's actions, the commissioner under this rule and language may informally resolve the dispute without having to order an administrative conference on the issue.

However, the Agency's purpose could be served by amending this sentence as follows:

> If the qualified rehabilitation consultant or vendor does not request an administrative conference, the Commissioner shall order that a conference occur unless the complaint is found to be frivolous or without merit.

Such an amendment would cure the defect noted and would not constitute a substantial change from the rule as proposed. As amended, the Hearing Examiner finds that the Agency has demonstrated the need for and reasonableness of the proposed rule.

15. Regarding the imposition of discipline, R.S. 15.E.1. provides:

> If discipline is decided on by the Commissioner, it may consist of one or more of the following. (Emphasis added.)

This proposed language suffers from the same defect noted in the two Findings above because it gives the Commissioner unfettered discretion to apply any type of discipline he feels is appropriate, whether or not it is included within R.S. 15.E.1.a.-d. To correct this defect, the word "may" should be replaced with the word "shall". If the Agency intends that the Commissioner should have available to him forms of discipline other than those listed in the rule, it should set them out specifically within that section. Such an addition may require a resubmission to the Chief Hearing Examiner for a no substantial change finding, however, pursuant to Minn. Stat. § 14.16. The change suggested by the Hearing Examiner above would cure the defect noted and would not constitute a substantial change from the rule as proposed.

16. Most of the public comment on R.S. 15. concerned the last paragraph of R.S. 15.E.1. which states:

> If the commissioner imposes discipline twice upon an individual or firm, the next apparent violation shall be referred to the rehabilitation review panel for review and any appropriate further discipline.

In response to public comments, the Agency amended this section both before and after the hearing as set forth in Exhibit A. Specifically, the amendments provide a five-year time-frame within which a third alleged violation by an individual or firm shall be referred to the rehabilitation review panel for review. Additionally, the rule now makes it clear that an individual's discipline will not be attributed to the employing firm unless a violation also constitutes a violation by the firm.

Two post-hearing comments criticized the five-year violation period. M.A.R.P. representatives argued:

> MARP believes that such a lengthy experience period is unreasonable and unnecessary. The object of this rule appears to be to facilitate discipline of repeat offenders. Two alleged violations within five years hardly constitutes recidivism. MARP suggestss that a two year experience is wholly sufficient to expeditiously deal with repeat violators. Also, such a (two year) experience would be much more valid as a means to segregate the recidivist from the inadvertent violator. Finally, a two year experience period is administratively efficient. The objectives of the rule are fully accomplished and the requisite record keeping by the Department is reduced significantly.

International Rehabilitation Associates, Inc., made essentially the same comment but recommended a maximum one-year period to accomplish the Agency's purpose.

The Agency supported the five-year period by stating that it "relieves an individual of the possibility of panel review on an old violation and yet allows the Department to maintain high standards for the profession." The Commissioner was granted wide discretion as to the form of discipline to be imposed for violations of the rules. See, 1983 Laws, Ch. 290, § 165. Although the optimum time period within which a third violation should be

referred to the rehabilitation review panel may be subject to varying opinions, the Agency has demonstrated a reasonable basis for the imposing the five-year time-frame. Furthermore, the only result of this rule is that the rehabilitation panel shall review the violation instead of the Commissioner. The panel can be expected to evaluate the severity and time-frame for earlier violations in arriving at its decision regarding appropriate discipline. The Hearing Examiner finds that the Agency has demonstrated the need for and reasonableness of this proposed section, as amended.

17. R.S. 15.E.2. provides that the Commissioner's disciplinary action may be appealed to the rehabilitation review panel. M.A.R.P. representatives suggested that it is necessary to clarify that the Commissioner's disciplinary action is to be stayed pending appeal. The Agency elected not to insert this clarification, however. Because the language contained in R.S. 15.E.5.a. specifies that the review panel's decision is the "final order", the Hearing Examiner concludes that the proposed rule is sufficiently clear. The Hearing Examiner finds that the Agency has demonstrated the need for and reasonableness of the proposed rule.

18. R.S. 15.E.4. states that the rehabilitation review panel shall follow specified hearing procedures and may take one or more of the listed actions. As discussed, supra, this language is in violation of a substantive provision of law. To correct this defect, the sentence should be amended to replace the word "may" with "shall". This amendment would cure the defect and would not constitute a substantial change from the rule as proposed. If the Agency intends that the review panel should have available to it forms of discipline other than those listed in the rule, it must set them out specifically within this section. However, as noted, supra, any addition may require resubmission to the Chief Hearing Examiner.

19. In a post-hearing comment, International Rehabilitation Associates, Inc., strongly criticized R.S. 15.E.4. stating:

> The rules are totally silent on what kind of violations will result in any specified actions being taken. No QRC or firm can know in advance what consequences will flow from a particular violation. The power to determine this is apparently being delegated to the review panel. The vague and broad delegation of power to the panel to define and state whether a punitive measure should be imposed (among a broad range of punitive measures) calls into question the validity of the proposed rule on the ground of overly broad delegation of legislative power. In short, under the rule, the panel can impose whatever punishment it chooses for any violation -- even the least egregious.

IRA recommended that the rule should be amended to define specific violations and what disciplinary action shall be taken for each.

The Hearing Examiner finds that the proposed rules provide standards sufficient to avoid the likelihood of arbitrary actions on the part of the review panel. The rules set forth a graduated series of disciplinary measures available to the Commissioner and review panel for penalizing "violators". Standards of performance are also set out in the rules. It would be impossible to anticipate every possible rule infraction or combination of infractions and specify in advance the appropriate disciplinary measure. The Hearing Examiner is unaware of any other regulatory agency in the State of Minnesota which has such a disciplinary mechanism.

The framework provided by the rules make it reasonable to assume that minor rule infractions will receive less severe punishment than major or repetitive violations. Finally, in the event an individual is subjected to what he/she perceives to be an arbitrary or unreasonable punishment, appeal procedures are available. Thus, the Hearing Examiner finds that the proposed rule has been shown to be needed and reasonable except as noted in Finding 18.

R.S. 18. - STANDARDS OF PERFORMANCE

20. R.S. 18.A. sets forth a set of goals toward which QRCs, QRC interns and vendors are encouraged to strive in order to satisfy the objectives that rehabilitation services promotes. M.A.R.P. commented that the goals are impermissibly vague to serve as a basis for disciplinary action. The agency stated that this section is needed and reasonable to provide an appropriate framework for rehabilitation providers to review and use in evaluating their own delivery of services.

This section of aspirational goals is well intended, however, it does not constitute a "rule" as that term is defined in Ch. 14. To reiterate, rule is defined in Minn. Stat. § 14.02, subd. 4 as:

> . . . every agency statement of general applicability and future effect . . . adopted to implement or make specific the law enforced or administered by it or to govern its organization or procedure. (Emphasis added.)

The Attorney General has rejected rules as part of its final review mandated by Minn. Stat. § 14.17 which appear to be gratititious statements or suggestions rather than enforceable standards or requirements. See, Attorney General Opinions: In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns, June 28, 1983; and In the Matter of the Proposed Adoption of Rules of the Department of Agriculture Governing the Administration of the Family Farm Security Program and Repeal of Existing Rules Governing Administration of the Family Farm Security Program, September 15, 1982.

Obviously, the goals set forth in this rule are suggestions rather than mandatory standards or requirements. Thus R.S. 18.A. violates a substantive provision of law pursuant to Minn. Stat. §§ 14.14, subd. 2 and 14.50(ii) and must be deleted to correct the defect. deleted p. 8,9

21. R.S. 18.C.2. prohibits more than one QRC from working on an employee's case at any one time, except in certain enumerated situations. The proposed rule also sets deadlines for the submission of rehabilitation plans and progress reports to the Office of Rehabilitation Services by QRCs.

Both John Mestel, speaking for the Injured Workers Action Association at the hearing, and a group of independent QRC organizations, proposed that the rule be expanded to specifically provide for discipline if the deadlines were not met and spell out mitigating factors. The Agency stated that disciplinary measures are best left with the Commissioner and review panel and declined to amend the rule. The Hearing Examiner concludes that the Commissioner and review panel must determine the most appropriate sanction in view of all the circumstances and within the parameters of R.S. 15.E.

Andrew W. Lynn, Attorney at Law, commented that to prohibit more than one QRC from participating in an injured employee's rehabilitation plan will only increase the amount of workers' compensation litigation because the rules (R.S. 18.C.5.) require that a hearing be set before a second assessment may be performed. Mr. Lynn stated:

> . . . I cannot stress too strongly the "chilling" effect of such a rule, as it would eliminate all opportunity for any party to seek a second opinion. I find this greatly limiting in my practice, and I think it greatly limits the rights of my clients, employers and insurers in this state, and those of the employee. The obviously most qualified pool of individuals for rendering opinions within the vocational area are those that have acquired the QRC status. To deny access for all parties except where litigation has begun will certainly decrease the effectiveness and the just results any judicial system seeks to attain, and, pursuant to these rules, result in litigation being created so that such an opinion can be obtained.

The Agency stated that it is important for the employee to have only one QRC involved in his/her case to avoid "conflicting signals" as to the appropriate rehabilitation plan. This purpose for the rule is directed at the successful rehabilitation of injured employees. The Hearing Examiner finds that the Agency has demonstrated the need for and reasonableness of the proposed rule. However, Mr. Lynn's comments are well taken. The Hearing Examiner suggests that the rule be amended to provide for a second evaluation at the request of the insurer with the consent of the employee and notification to the Office of Rehabilitation Services. This amendment would provide a mechanism for dispute resolution prior to filing a claim petition.

clarification added p. 9 See FF2

22. R.S. 18.D.8. prohibits a QRC or vendor from recommending settlement agreements. This provision was criticized by International Rehabilitation Associates, Inc., as follows:

> This rule should be amended to enable QRC's and vendors to comment upon and recommend structured settlements in the interest of protecting injured workers. Because of his experience with a particular injured employee, a QRC knows the effect of injuries on the long-term employability and earning power of the injured worker. The QRC is therefore in a unique position to evaluate whether the terms of a structured settlement meet the needs of the injured employee and are in his best interests. Therefore, the QRC should be permitted to act as a consultant in developing a specific structured settlement.

The Agency stated that this proposed rule is needed and reasonable because such advice should be rendered by the employee's attorney and that the rehabilitation provider is not competent to give what is clearly legal advice to the employee and should, therefore, refrain from doing so.

If the QRC believes that he/she may have something significant to contribute to structuring a settlement for an employee, the rules do not prevent that QRC from requesting the employee's permission to contact the employee's attorney for the purpose of providing information or recommendations. It is clear, however, that the legal ramifications of settlement agreements are not within the QRC's area of expertise and that harm could result from a QRC attempting to influence an employee in this area. The Hearing Examiner finds

that the Agency has demonstrated the need for and reasonableness of proposed R.S. 18.D.8.

23. R.S. 18.E.4., as amended, states that: "A qualified rehabilitation consultant or vendor's registration is subject to disciplinary action up to and including revocation based on substantiated complaints about professional behavior, services or for failure to comply with established laws, rules, decisions or orders." IRA stated that use of the terms "professional behavior, services", without a qualification that the complained of behavior or services must also constitute a violation of a known standard, is too vague to be enforceable. The Hearing Examiner agrees. See, Thompson v. City of Minneapolis, 300 N.W.2d 769 (Minn. 1980); Can Manufacturers Institute, Inc. v. State, 289 N.W.2d 416 (Minn. 1979). The vagueness herein constitutes a violation of a substantive provision of law pursuant to Minn. Stat. §§ 14.14, subd. 2 and 14.50(ii). In order to correct this defect, the rule could be amended to read:

> . . . substantiated complaints about professional behavior or services which show noncompliance with established . . . .

So amended p. 12.

R.S. 19. - REHABILITATION SERVICES AND FEES

24. R.S. 19.B. delegates to the Commissioner the authority to review services and fees to determine if they are reasonable and necessary. M.A.R.P. disagreed with the need for this rule:

> It is wrong for the commissioner to substitute his judgment as to reasonable and necessary services and fees in the absence of disagreement between the parties who have the "hands-on" knowledge of a given file. Governmental usurpation of agreed-upon fees is particularly objectionable in the absence of any dispute between the various parties.

The Agency pointed out that responsibility and jurisdiction to monitor and determine reasonable rehabilitation costs and services has been delegated to the Agency by statute. See, 1983 Laws, Ch. 290, § 165. This rule merely attempts to provide a framework for the Commissioner in carrying out the statutory mandate. The Hearing Examiner finds that the Agency has demonstrated the need for and reasonableness of proposed R.S. 19.B.

25. R.S. 19.F. sets forth the types of services which shall not be considered reasonable or necessary unless expressley consented to by the employer/insurer. M.A.R.P. commented that more respect should be given to the judgment of the parties with "hands-on" experience by presuming that service provided with the consent of the employer/insurer is reasonable and necessary. IRA also commented that the rule is excessive and unnecessary.

The Agency supported this rule by stating that listing "consensual" services as a guide for all those involved in rehabilitation will better enable all participants to determine approprite activities. The Hearing Examiner finds that the proposed rule has been shown to be needed and reasonable. As indicated above, responsibility and jurisdiction to monitor and determine reasonable rehabilitation services has been delegated to the Agency by statute. The listing of services which need client consent in this rule is an appropriate means by which the Agency may carry out that authority.

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

CONCLUSIONS

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

2. That the Agency has fulfilled the procedural requirements of Minn. Stat. § 14.14, subds. 1, 1a and 2 (1982), as amended by Minn. Laws Ch. 210, § 4 and Ch. 301, § 64, and all other procedural requirements of law or rule.

3. That the Agency 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. §§ 14.05, subd. 1, 14.14, subd. 2, 14.15, subd. 3, as amended by Minn. Laws 1983, Ch. 210, § 6, and 14.50 (i) and (ii) (1982), except as noted at Findings 13, 14, 15, 18, 20, and 23.

4. That the Agency 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 and 14.50 (iii) (1982).

5. That the amendments and additions to the proposed rules which were suggested by the Agency 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. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, 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 3 as noted at Findings 13, 14, 15, 18, 20, and 23.

7. That due to Conclusion 3, this Report has been submitted to the Chief Hearing Examiner for his approval pursuant to Minn. Stat. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6.

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 Agency 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 this 1st day of November, 1983.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

Reported: Taped, no transcript.

LI-84-003-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed
Rules Governing Qualified
Rehabilitation Consultants
and Rehabilitation Vendors.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on September 23, 1983, before Peter C. Erickson, 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 Labor and Industry and;

WHEREAS, the Department of Labor and Industry has now determined to adopt rules; and

WHEREAS, the Department of Labor and Industry 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 Labor and Industry has cured the defects in the rule as required.

NOW, THEREFORE, upon receipt of this Order, the Department of Labor and Industry has the responsibility of submitting the complete hearing record and the rules as adopted by the Department of Labor and Industry to the Attorney General and to publish in the State Register if approved by the Attorney General.

Dated: December 12th, 1983.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

LI-84-003-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed
Rules Governing Qualified
Rehabilitation Consultants
and Rehabilitation Vendors.

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. § 14.15, subds. 3 and 4 (1982), as amended by Minn. Laws 1983, Ch. 210, §§ 6 and 7, which provide:

> Subd. 3. Finding of substantial change. If the [hearing examiner's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.13 to 14.18 it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, the chief hearing examiner shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief hearing examiner determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief 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 adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission's receipt of the agency's submission. Advice of the commission shall not be binding on the agency.

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, except as follows:

1. Finding 13 is not approved. The rule relates to a responsibility of the Commissioner. It does not have the effect of requiring a QRC to do some act at the discretion of the Commissioner. Agency discretion, especially when it involves procedural rules, is not always an evil, especially where those regulated by the rule are not required to perform some act at the whim of the Agency. The Examiner's proposal would require, in effect, a "probable cause" determination prior to an audit, investigation or review of a QRC's activities. That would unnecessarily inhibit the Commissioner in the performance of his responsibilities.

2. In Finding 23, the Examiner makes one proposal for curing the defect found in the rule. An additional method of curing the defect would be to delete the words, "about professional behavior, service, or".

In order to correct the defects enumerated by the Hearing Examiner or the Chief 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 or the Chief 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: November 2, 1983.

DUANE R. HARVES
Chief Hearing Examiner

MEMORANDUM

At Finding 21, the Hearing Examiner has made a recommendation for a modification to R.S. 18.C.2. I concur in his recommendation and strongly urge the Commissioner to modify the rule to mandate a special evaluation at the request of the insurer, not requiring consent of the employee.

The rules provide for a second evaluation once a claim petition has been filed. If the oft-expressed intent of the Department to reduce litigation is to be carried out, every effort must be made to allow opportunities for adverse examinations of all kinds prior to the filing of a claim petition. As attorney Andrew Lynn stated, the present proposal would have a "chilling-effect" on amicable resolutions of disputes.

D.R.H.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION REHABILITATION SERVICES

In the Matter of the Proposed Adoption of Rules of the State Workers' Compensation Rehabilitation Services Governing Qualified Rehabilitation Consultants and Rehabilition Vendors.

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson on the 23rd day of September, 1983, at 9:00 a.m. in the Technical Vocational Institute Auditorium, St. Paul, Minnesota, after proper notice required by Minnesota Statutes 14.13 was served upon all persons, associations, and other interested groups registered with the State Department of Labor & Industry for that purpose.

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

1. The Commissioner adopts Hearing Examiner, Peter C. Erickson's, Findings of Fact, dated November 1, 1983, 1 through 20, 22 through 25 and the first half of 21 and by this reference incorporates them into this document.

2. The Hearing Examiner in the last half of Finding 21, and Chief Hearing Examiner, Duane R. Harves, recommend that R.S.18.C.2 be modified to mandate a second evaluation of an injured employee's rehabilitation plan prior to the commencement of any litigation on the matter. The second evaluation would be performed at the request of the insurer.

The Commissioner finds that the reasons given for the recommendation are already addressed by R.S.8. R.S.8 reads as follows:

DISPUTES

> Where questions exist concerning an employee's entitlement to rehabilitation services, or where a rehabilitation plan is not acceptable to the employee or to the employer, or in case of any other dispute involving rehabilitation, the commissioner, either on his own motion or upon request of the employer or employee, may schedule a conference to resolve the issues in dispute. The commissioner may require the parties to meet and confer informally prior to such a conference. The commissioner may order necessary and reasonable medical examinations and rehabilitation evaluations at the expense of the employer in preparation for such a conference. After allowing the parties an opportunity to be heard, the commissioner shall make a determination on the issues and serve copies on the parties. No determinations will be made with respect to rehabilitation entitlement until primary liability for the claim has been admitted or established.

Additionally, the Commissioner finds that to allow an insurer to order a second evaluation would foster litigation. The Division of Rehabilitation Services specifically noted that additional evaluations sometimes serve as the basis for litigation. The clarity and focus of the rehabilitation plan demand that there be but one evaluation until such time as litigation commences.

CONCLUSIONS

1. The Agency adopts the modifications recommended in Findings 14, 15, 18, 20 and 23 of the Hearing Examiner's Report to correct the defects noted therein.

2. The Agency concludes the R.S.18C.2 is needed and reasonable as written and therefore rejects the suggestion made in Finding 21 of the Hearing Examiner's report and in the Memorandum to the Chief Hearing Examiner's report.

STATE OF MINNESOTA

Jay Benanav

JAY BENANAV
Deputy Commissioner

L+I Exhibit #2

RECEIVED
AUG 30 1983
ADMINISTRATIVE HEARINGS

DEPARTMENT OF LABOR AND INDUSTRY

Workers' Compensation Rehabilitation Services

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE WORKERS' COMPENSATION REHABILITATION SERVICES GOVERNING QUALIFIED REHABILITATION CONSULTANTS AND REHABILITATION VENDORS.

STATEMENT OF NEED AND REASONABLENESS

On January 21, 1980, Rules were promulgated to implement M.S. 176.102 regarding rehabilitation of work related injuries and diseases, including Rules necessary to be a qualified rehabilitation consultant or registered rehabilitation vendor.

During the last two legislative sessions, a number of concerns were expressed regarding rehabilitation services and fees and qualifications and standards for rehabilitation consultants and vendors. In 1981, M.S. 176.136 was revised authorizing the Commissioner of Insurance to report to the legislature by January 15, 1983 regarding the delivery of medical and health care services, including rehabilitation services, under the Workers' Compensation Laws of this state. The Commissioner of Insurance was also charged with conducting a study of the qualifications and background of rehabilitation consultants and vendors providing services under section 176.102 for the purpose of determining whether there are adequate professional standards provided, including safeguards to protect against conflicts of interest.

In the Spring of 1982, the Commissioner of Labor and Industry appointed two task forces consisting of employers, insurers, labor, attorneys and rehabilitation consultants. One task force studied the area of standards of performance for rehabilitation providers and the other task force studied standards for fees and services. Both groups developed recommendations for Rules which were submitted to the Rehabilitation Review Panel and the Commissioner of Labor and Industry for proposed rule making procedures.

The promulgation of these Rules is authorized by M.S. 176.102, subd. 10 and 12, which require the agency to promulgate rules relating to qualified rehabilitation consultants and any other rules necessary to implement M.S. 176.102. This authority was reiterated in the new workers' compensation law, Minnesota Laws 1983, Chapter 176, Section 165.

A public hearing was scheduled for Tuesday, December 28, 1982 on rules proposed November 22, 1982 regulating qualified rehabilitation consultants and registered rehabilitation vendors.

Because of adverse weather conditions, the rule hearing was cancelled. Subsequently the rules were withdrawn by the agency for additional revisions. Currently, a public hearing is scheduled for Friday, September 23, 1983 on the newly revised rules. Notice of this hearing was published in the State Register August 22, 1983.

R.S. 1 Definitions

The reason for the deletion of number 17 and the insertion of number 19 is to accurately reflect sections of the rule. Since there are two new sections of the rule 18 and 19, this change is merely a housekeeping change.

R.S. 1 L.

Rehabilitation Services. The term "Rehabilitation Services" is added to the list of definitions to designate the official title of the Division of Rehabilitation Services of the Department of Labor and Industry.

R.S. 1 N.

Rehabilitation Provider. The term "Rehabilitation Provider" is used in these rules as a term of reference to four generally recognized categories of rehabilitation professionals. Those four categories are: qualified rehabilitation consultants; qualified rehabilitation consultant intern; qualified rehabilitation consultant firms; and registered rehabiliation vendors. Because of the frequent reference to these four categories of professionals in the rule the term "rehabilitation provider" serves as a shorthand usage in referring to all four categories.

R.S. 14 Line 15

The deletions in this section of the words "following" and the addition of the phrase "in A.-D." are for style and grammatical purposes only.

R.S. 14 A. 1.

This section of the rule specifically sets forth the credentials necessary for a qualified rehabilitation consultant to apply for and gain that status. In lines 23 and 24, the related fields of counseling and guidance, psychology, and social work, are added as additional disciplines which curriculum most closely resembles the skills necessary to function as a qualified rehabilitation consultant. These fields are considered related fields because of an analysis of courses usually contained in their curriculum, from experience in dealing with individuals who have successfully completed these courses of study and an analysis of transcripts and content of study and its relationship to vocational rehabilitation. Other fields of study are not considered to be related to vocational rehabilitation because they provide too general a background and are not specifically related to vocational rehabilitation. Therefore, the conclusion that the specific related fields listed

in R.S. 14 A. 1. are indeed related comes about through experience and analysis of the other related fields by the staff of the Rehabilitation Services division.

Lines 28, 29

This change of the rule specifically requires that prior to becoming a full-fledged qualified rehabilitation consultant (hereinafter "QRC"), an individual must have spent at least one year as a qualified rehabilitation consultant intern (hereinafter "QRC intern"). The additional deletion and insertion in lines 30 and 31 is merely for grammatical purposes. Specifically, this change is needed in implementing these rules because it insures consistency and the professional background that a QRC will have prior to practicing in the field. The one year spent as an intern gives them virtually on-the-job training under supervision which allows them the ability to function in a professional role. This requirement is reasonable because it guarantees that employees who have selected QRC's will know that a new QRC will have had at least one year of training prior to being able to handle their specific case. This one-year time period is a reasonable amount of time for an individual to gain sufficient experience to be able to handle the current and past complexities of the workers' compensation law and related rehabilitation concerns.

R.S. 14 A. 2.

The change in this section is identical to the change in the proceeding section R.S. 14 A. 1. The rationale for this change is identical to the preceding one. Therefore, the reasons why such a change is needed and reasonable is set forth in the preceding section.

R.S. 14 A. 2. Lines 9-25

These three sections which have been deleted were present under the old rule for several important reasons. One of the purposes of the rules which are being promulgated is to provide consistent standards and sufficient professionalism in handling injured workers rehabilitation. The consistent standards are important to protect the employees in their rehabilitation efforts. The employee will be counseled and assisted in a professional manner that gives them the best benefit of rehabilitation expertise. The worker compensation law has grown increasingly complex and the related rehabilitation possibilities have also grown

increasingly complex over the last few years. It is more important than ever that academic expertise in the specific areas listed in the preceding rules as well as on-the-job training are essential to offer adequate rehabilitation care to injured employees in Minnesota. To maintain a high level of consistent, professional rehabilitation care, it is essential that there are strict and equally high standards for admission to this qualified status by the State of Minnesota. Because of the increased complexities of the law and the field of rehabilitation, the academic training and practical experience required under the new rule is both needed to protect the injured employees and reasonable given the complexities of the law and the desire to increase professionalism of care sanctioned by the State of Minnesota.

Another difficulty with the categories of qualifications listed in lines 9-25 were that evaluating individual applications was extremely difficult based upon merely a person completing a degree or background from an accredited institution and then evaluating in turn their significant experience to make them qualified for this status. The difficulty was in evaluating an individual's experience to determine if it was appropriately related to rehabilitation. The new classification removes the opportunity for inconsistency in evaluation of applicants when the biggest question as to whether or not they are qualified is based upon their past work experience. Therefore, with a combination of desire for increased professionalism and administrative consistency, the new categories set forth in the rule are both needed and reasonable.

R.S. 14 B.
Page 3
Line 2

This addition is merely to make reference that an intern must meet the minimum standards set forth in the preceding sections for full-fledged QRC status.

R.S. 14 B.
Page 3
Lines 3-7

The reason for this additional paragraph in the rules is to set forth that the responsibilities of a QRC apply also to a QRC intern. In other words, an intern may also be subject to discipline and evaluation for their performance in their role as a QRC intern. However, a QRC intern, as set forth in this

paragraph, also has the rights of appeal as a full-fledged QRC. Also, any violations of the rules during the internship period may be considered in evaluating an application by a QRC intern for full-fledged QRC status.

R.S. 14 C. Lines 20-27

Because of the deletion of the three categories set forth in R.S. 14 A. 2. iii, iv and v, the earlier stated criteria for the type and period of time over which experience shall be attained is no longer applicable. Therefore, it is needed and reasonable that this section shall be deleted at this time.

R.S. 14 C. Page 14 Lines 27-31

To further clarify the type of experience necessary to meet the requirements set forth above in R.S. 14 A., this rule specifies that the experience may not be part of educational training. In other words, the only experience accepted under the rule is that which occurs subsequent to the educational training. Therefore, an individual must have their year internship at some period of time either before or after school for them to apply and be granted QRC status. The volunteer activities and other casual backgrounds which have no full-fledge responsibilities should not be considered similar to the internship status sanctioned by the rules. The test here is basically that the experience must be with full responsibilities for the worker. The volunteer or other casual intern experience during school is usually such that the individual is not truly responsible for the case or the individual's rehabilitation.

R.S. 14 D. Page 4 Line 14-20

This language is added for purposes of specifying that existing registered qualified rehabilitation consultants shall be deemed to meet the standards of this rule on the date that the rules take effect. The reason this is needed is that the public has been protected by the current on-going evaluation of existing QRC's over a period of time. Individuals who either should not or could not meet the standards through their experience under the old rules would have been disciplined or revoked from that status prior to the effective date of the new rules. The public has a need for experienced qualified QRC's who have practiced in the field for some time. The existing registered QRC's on the date of these rules being effective have proven themselves to

have a minimum level of professionalism which makes them able to adequately serve the needs of injured workers on into the future. They have attended sessions by Rehabilitation Services, they have been informed of the law changes, and are currently practicing with changes in the law and rehabilitation. Therefore, they are deemed because of this added experience and training, to meet the standards whether or not they may have some of the specific academic training set forth in the new law.

On the other hand, qualified rehabilitation consultant interns may in fact not have had more than a brief experience in their role as an intern. A newly registered intern may in fact not have had experience in working with the new workers' compensation law. If they had achieved sufficient experience as an intern, they could have applied for full-fledge QRC status prior to the effective date of this law. Then if they met the status of a QRC under the old law, they would indeed also be deemed full-fledged QRC's after the effective date of this rule. It is necessary for administrative consistency to have a uniform standard that can be applied to applicants seeking to become full-fledged QRC's after the date of these rules becoming effective. Therefore, it is still possible for any QRC intern to gain the additional academic training necessary if in fact they do not already have it, and complete the time of their internship and be granted full-fledged QRC status. The time already spent by a QRC intern will count towards their eventual one year of experience in rehabilitation necessary for full-fledged QRC status. Therefore, the rule is needed because it maintains a consistent standard for all future applicants for QRC status having similar academic background. It also requires that all such future applicants have similar practical experience. The QRC interns have an advantage over future applicants for full-fledge QRC status by virtue of the fact that they have part of their year experience necessary under R.S. 14 A. already completed. This requirement is reasonable in view of the fact that a QRC intern operating under the old rule could apply based upon whatever their academic training would be and seek full-fledged status prior to the effective date of this rule. Furthermore, the uniform academic backgrounds to practice in this field is

a reasonable requirement because of the complex area and the unique needs in rehabilitation to have knowledge of a broad body of expertise. An individual who may currently function as a QRC intern may not have either sufficient experience or education to offer that broad knowledge necessary to function as a QRC without either additional experience or academic training. There is a strong public policy interest in maintaining minimum academic experiential requirements to practice in this field of rehabilitation. The injured workers deserve the best trained and experienced rehabilitation providers possible.

R.S. 15 A. 1-6

The changes in this section are merely format changes recommended by the Revisor to more appropriately set forth these categories.

R.S. 15 A. 7.

The annual registration fee for both the individual consultant and the firms is required by the new statute, Minnesota Laws, 1983, Chapter 176, Section 165. The fee of $100 for a firm and $50 for an individual QRC or QRC intern is a reasonable amount of money for purposes of the fees charged and the type of services offered by these professionals. The hourly rate of many rehabiliation providers may vary between $30-75 an hour. The statute set forth above requires that fees may be levied by the commissioner, to pay for the registration and monitoring rehabilitation provides. Therefore, the fee is needed based upon the statutory authority set forth above. The rule is reasonable in that the fee and amount charged has a rational relationship to the amount of money and fees which an individual in this field may charge. Furthermore, the fees charged are in no way onerous or burdensome on these rehabilitation providers.

R.S. 15 A. 7. Lines 5-8

The change in the number of days from 45 to 60 days is an administrative change based upon the actual time it takes for an introductory training session to occur subsequent to the initial approval of the application. Since the introductory training session is required for licensure, this change in the number of days allows an individual slightly more time to complete such a course. Furthermore, the introductory training session is needed and reasonable to give individuals who may have need for feedback and questions concerning the current

status of rehabilitation and to have the opportunity to be informed of their rights and responsibilities as a QRC by the Division of Rehabilitation Services. Therefore, the introductory training session is an essential part of Rehabilitation Services' role in educating and training the newly-approved applicants for QRC status.

R.S. 15 B. The changes in this section are merely typographical or grammatic changes.

R.S. 15 D. Lines 29-36 The additional language added to this section requires an individual formerly licensed as a QRC who does not have direct case service on worker compensation recipients for over a year to lose their license. He or she must reapply after meeting all the existing standards in place at that time. This rule is needed to prevent individuals who may be only marginally practicing in the field of rehabiliation from losing touch with the needed expertise from re-entering the field and offering services to an injured worker without truly being aware of the current status of the law and rehabilitation field. This requirement is reasonable in view of the fact that individuals who have the responsibility of providing professional services in rehabilitation, who haven't in fact practiced for a period of time, should be required to justify that their credentials and experience are sufficient to be entrusted with care of injured workers. Therefore, if they wish to be granted the status of QRC again after a lapse of a year, they should be required, to gain the experience and educational background essential to provide the services set forth by the statute. There is one small exception set forth in the rule which is also needed and reasonable. An individual who is in a supervisory role of QRC's providing direct case services is deemed to have continuing knowledge of the rights and responsibilities and complexities of the field by virtue of their supervisory role. Therefore, this rule is reasonable because an individual working closely with QRC's, who provide current updated services, is deemed to have knowledge of such skills and services. Finally, this rule is needed and reasonable because it maintains a consistent administrative standard necessary for all practitioners in this field to fulfill prior to

licensure. Without either the current practical experience of those individuals who are in the field, or obtaining the sufficient academic and experiential background needed to be granted licensure, an individual should not be allowed to practice in the field of workers compensation rehabilitation given its complexities and unique expertise necessary.

R.S. 15 E. Lines 8-17

The deletion of the language in this section is needed and reasonable because the language which follows sets forth a fairly detailed procedure on how the rights and responsibilities of a practicing QRC or QRC intern may be evaluated and appropriately disciplined by the department or the Rehabilitation Review Panel. Prior to the new rule, the entire section dealing with discipline of a QRC who had violated the rules is contained in these few lines. The deletion of this procedure and power by the commissioner to revoke is based upon it being needed and reasonable to have a more detailed procedure guaranteeing the rights of due process and notice necessary and required in dealing with QRC's and QRC interns.

R.S. 15 E. Lines 18-20

This section is needed and reasonable because it continues the commissioner's role of reviewing the activities of rehabilitation providers in determining if they are in compliance with these rules and the statute that he is charged with enforcing. It is appropriate for the commissioner to be the individual to enforce these rules and the statute because of the legislative intent and statutory language in this area. Furthermore, it is reasonable and needed for the commissioner's review to be discretionary in view of the fact that he does not have the resources to constantly monitor every act taken by currently licensed rehabilitation providers. He must use his discretion for purposes of allocating enforcement resources to determine when it is appropriate to look with greater scrutiny at individual rehabilitation provider activities which may be in violation of the rules.

R.S. 15 E. 1. Lines 21-35

The procedure set forth in this section is needed and reasonable because it allows for an informal resolution of frivilous complaints as well as sufficient due process protection for a rehabilitation provider accused of wrongdoing under the rules. If a frivilous complaint has

been tendered regarding a rehabilitation provider's actions, the commissioner under this rule and language may informally resolve the dispute without having to order an administrative conference on the issue. However, if the accused party requests an administrative conference, such a conference will be granted under this rule. The commissioner is given necessary discretion to evaluate the evidence which would come before him through his review and through evidence presented at an administrative conference. Based upon that information, the commissioner may then in turn determine what is the appropriate action to be taken. The commissioner, however, is under an obligation to specifically set forth the rationale for his decision whether or not to discipline an individual so that the parties involved will know why and how the commissioner has acted. This procedure for investigating and resolving disputed actions by QRC and QRC interns is appropriate and needed and reasonable to avoid allocating inappropriate amounts of time and resources into an overly formalized review process of each allegation of inappropriate conduct.

R.S. 15 E. 1. a. through d.

The specific types of discipline that the commissioner may apply to an appropriate circumstance are set forth in this section. All of them are needed and reasonable given the types of violations and problems frequently seen by Rehabilitation Services under the existing rules. The types of discipline specifically set forth range from a written reprimand requesting an individual cease offending actions up to including full restitution of improperly charged fees, extension of intern status up to six months, and a restriction on accepting new cases for up to six months. Clearly, a written reprimand is an appropriate, needed and reasonable type of disciplinary power the commissioner should have in dealing with violators of his rules or the statute. The full restitution power is essential to protect the integrity of the rehabilitation process by being able to assure employers and insurance carriers that the commissioner has authority and power to deal with improperly charged fees by rehabilitation providers. This authority is needed and reasonable because it also helps the commissioner implement his legislative charge in regulating the licensure and actions of rehabilitation providers. The extension of intern

status for up to six months is appropriate in the instance of an intern who has had violations of the rules. Instead of categorizing their earlier time spent as being for naught, additional time of up to six months fulfilling requirements prior to letting them apply for QRC status is appropriate. The restriction on accepting new cases for up to six months goes to the heart of many of the problems that Rehabilitation Services currently comes in contact with under the existing rules. Often times an individual has too many cases and is not able to give them appropriate service. Because of their inability to give appropriate service, often circumstances result in violations of the rules. Restriction on accepting new cases would allow the rehabilitation provider to resolve the problems with their existing files before adding further burdens to themselves by having new clients during this period of time.

R.S. 15 E.
Page 7
Lines 9-12

This language is needed and reasonable to allow an orderly sequence of procedures to be followed when an offending party has been disciplined, twice by the commissioner. Instead of trying to apply one of the enumerated types of discipline or others the commissioner may feel is appropriate, the commissioner shall refer the individual for review to the Rehabilitation Review Panel. This is needed so that the commissioner will not have to make decisions concerning a repeat "offender." The opportunity for the Review Panel to consider a third offense by a rehabilitation provider enables them to more fully consider any and all factors in a case. This procedure also in theory gives the more serious offenses to the panel to review, whereas the less serious offenses may be resolved by the commissioner in the first or second instance.

R.S. 15 E. 2.

Even in the instance where the commissioner disciplines an individual through one of the procedures outlined in R.S. 15 E. 1. a.-d., an individual still has the right of appeal to the Rehabilitation Review Panel. This section sets forth that that right exists and may occur within 30 days of the determination. This is needed and reasonable to insure in a very specific manner that the disciplined party knows that they have a right to appeal an adverse determination against them to the Rehabilitation Review Panel.

R.S. 15 E. 3. If, as referred to above, there has been a third apparent violation of the rules or statute, the commissioner is charged with referring it to the Rehabilitation Review Panel. If this occurs, the rule specifies that written notice shall be given to the individual and the notice shall set forth the reasons for the referral. This language is needed and reasonable because it functions in part as notice to the individual of the referral to the review panel and also guarantees the offending individual of reviewing in detail the commissioner's rationale for why he feels referral is necessary. This notice further insures the individual of due process protection and therefore is needed and reasonable given the purpose of the rule.

R.S. 15 E. 4. The statute sets forth a fairly detailed hearing procedure for the Rehabilitation Review Panel in considering appeals to it. This section is needed and reasonable because it sets forth some specific types of actions that the panel may take in dealing with rehabilitation provider discipline. The panel is given, through the statute, authority to revoke rehabilitation providers. The detailed list of the types of discipline up and to including revocation is necessary concerning what actions are appropriate in a disciplinary review. Since all of the actions the panel may take as enumerated in the rule lead up to and do not exceed revocation, they are within the power given the panel by the statute. Therefore such discipline is reasonable and within the authority of the panel. The specific categories of actions they may take are needed because they give notice to offending parties of some of the types of disciplinary actions the panel may or may not take. Also, it provides a reference for the alleged offending party to know the framework within which the panel may act.

R.S. 15 E. 5. This section deals with the appropriate appeal provisions an individual should follow if they receive an adverse decision by the review panel. The requirements of the panel's actions to be in writing is a necessary portion to protect the due process rights of the individual appearing before the panel. The right to appeal to the Workers' Compensation Court of Appeals flows from the policy set forth in the statute to give

jurisdiction to the Court of Appeals regarding decisions by the commissioner.

In R.S. 15 E. 5. b. the rule specifies an individual must wait a year if they are revoked before they reapply for registered status. This was part of the prior rule and is needed and reasonable because it prevents an individual who has suffered the most severe discipline possible under the statute and under these rules from immediately practicing the profession again. Making an individual who has been revoked from rehabilitation provider status to wait a year is needed and reasonable to allow them time to reflect upon the error of their ways. Also, it insures that they will avoid any future or similar violations.

R.S. 17 A. 1.-3. The changes in this section are merely for form and grammatical purposes.

R.S. 17 A. 4. The annual registration fee of $100 for each registered vendor is parallel to the requirement for qualified rehabilitation consultant firms and is required under the new statute found at Minnesota Laws, 1983, Chapter 176, Section 165. This fee is needed and reasonable because in part it fulfills the statutory obligation of the commissioner to promulgate such fees and it is not a burdensome requirement given the charges for services usually required by vendors in the rehabilitation field. Furthermore, this fee is needed to pay for the costs of monitoring and registering the vendors.

R.S. 17 B.-D. The changes in this section are form changes recommended by the Revisor of Statutes to reference the appeal, renewal and revocation processes to the same procedures used governing QRC's.

R.S. 18 A. The policies set forth in this section are basically to provide a context for rehabilitation providers in interpreting the thrust of the rules set forth in this section. These policies provide an appropriate framework for rehabiliation providers to review and use in evaluating their own delivery of services on a daily basis. These objectives and policies are essential in providing the context to educate and encourage those professionals practicing in this field.

R.S. 18 A. 1.-8.

1. The whole purpose of rehabilitation, as set forth in the statute, is to focus all care and consideration on getting the injured worker back to work as soon as possible. Unless the rehabilitation provider focuses in that manner, the directive of the statute is not being followed. Therefore, this rule is needed and reasonable because it stresses the importance and purpose of rehabilitation for the rehabiliation provider.

2. It is essential that the rehabilitation provider be reminded that they are in a neutral role in dealing with the parties involved in rehabilitation. It is very important that the rehabilitation provider not become overly concerned about any one party to the point that they do not effectively serve the overall goals of rehabilitation. Therefore, this rule is needed and reasonable because it further sets forth the responsibilities of rehabilitation providers in avoiding unfair emphasis on one party's concern at the expense of the other party's interest in rehabilitation.

3. It is essential that a rehabilitation provider make a special effort to communicate with all parties. This effort goes beyond a fair and objective position. It requires time by the rehabilitation provider to constantly keep informed all participants in the rehabilitation process. This is needed and reasonable to guarantee all participants their equal right to comment on the rehabilitation process.

4. The rule requiring withdrawal on the case if rehabilitation is not being fulfilled is essential to the implementation of the purposes of the statute and these rules. The rule is needed and reasonable because it requires an individual who is involved in trying to provide rehabilitation services from withdrawing from that process if in fact it is not occurring because in part of their failures. Because of the over-riding concern for the success of rehabilitation to get the injured worker back to full employment, this rule is both needed and reasonable if the rehabilitation provider is standing in the way of such a result.

5. To appropriately provide professional services in the area of rehabilitation and workers' compensation, it is essential that an individual stay aware of changes in the law and in the field of rehabilitation. Continuing education programs have traditionally been the best way of keeping abreast of such changes. Such a rule is needed and reasonable because it insures that the overall goal of providing professional rehabilitation services will be continually met because of additional knowledge gained by attendance at such programs.

6. If in fact there are allegations of inappropriate professional advice and service by a rehabilitation provider, it is necessary for that individual to have a source of funds that can compensate those who have been injured by his or her actions. It is needed and reasonable that such a source of compensation be a professional liability insurance policy. Therefore, such coverage is necessary to further protect those participants in the rehabilitation process by knowing that in case the provider does not act appropriately, there is a source of recovery for them.

7. There are statutes and rules on the federal, state and local level that prevent an individual from discriminating on the basis of race, color and creed. These statutes and rules also apply to participants in rehabilitation. Their awareness of this fact only assists in furthering the providing of appropriately professional services to injured workers. Therefore, it is needed and reasonable that in dealing with rehabilitation no concerns about possible discrimination be present in the mind of the injured employee when he seeks such counseling.

8. To avoid the unprofessional behavior of dealing with the faults or alleged faults of colleagues and peers in one's profession, it is appropriate and necessary that comments be positive about any shortcomings that may be apparent. Furthermore, if violations do occur, there is another section of these rules which require an individual aware of such violation to refer that violation to Rehabilitation Services. This rule is needed and reasonable because it will

upgrade the profession by avoiding inappropriate discussions with participants in rehabilitation on individual shortcomings rather than on their strengths.

R.S. 18 B. This section provides introductory language prefacing the impact and affectiveness of the succeeding sections. It further references the statute and these and other rules as the operative body of law governing professional rehabilitation providers services.

R.S. 18 C. 1. This rule was needed and reasonable because it restricts the rehabilitation services that can be offered an employee to only those which are in agreement to the parties to the rehabilitation process. This rule is needed because in some instances in the past, services are offered and given which are not part of the plan and therefore have not been approved by Rehabilitation Services. Furthermore, it is needed because some of these services which may be offered have not been approved by the employer/insurer and therefore represent an additional cost to the system of rehabilitation that is unnecessary. This rule is reasonable because it makes the plans which are going to be used to implement rehabilitation an important part of the overall process. It allows each of the parties an opportunity to participate in constructing that plan. It reflects their interests and the interest of the employee in returning to gainful employment. Therefore, the rule is needed and reasonable because it avoids unnecessary duplication of expensive services.

R.S. 18 C. 2. This language is very important to continue to provide integrity to the rehabilitation process as supervised by a QRC. The entire function of a QRC is to be the manager of rehabilitation. It is necessary that there be only one manager to effectively assist in implementing rehabilitation. This rule would prevent, except in certain exceptions, more than one QRC working on an employee's case. This ultimately benefits the employee because there are not conflicting signals as to what the appropriate course of rehabilitation is. Further, it benefits the employer/insurer because the cost of rehabiliation is lowered by not having to pay more than one QRC to manage the rehabilitation process. Also, the rule is needed because it sets a deadline for the

time in which a plan determining what rehabilitation is appropriate must be submitted to Rehabilitation Services. It is needed because it sets a deadline for when progress reports on how that rehabilitation is proceeding must also be delivered to Rehabilitation Services. Both the requirement for one QRC case and deadlines for when reports must be filed with Rehabilitation Services are reasonable because they allow enforcement which keep costs down and rehabilitation provided more expeditiously for the employee.

R.S. 18 C. 3. This provision specifically forbids the continuing billing of services after there has been a change from one QRC to another QRC. There are some exceptions set forth that will be explained in further sections, however the purpose behind this is that in the past, the previous QRC has continued to bill additional hours when it is totally unnecessary. Therefore, it is reasonable and needed to reduce cost and to provide for a clean transition to not allow an additional QRC to continue to work on a case after a transition has occurred.

R.S. 18 C. 4. This rule is needed and reasonable because it mandates a deadline during the transition period from one QRC to another QRC of 15 days within which all materials must be transferred to the new QRC. This allows a minimal amount of two QRC's on a case during that 15 day period of time. However, it does set a deadline from which the previous QRC may be involved capacity or another. It is reasonable because the time it takes to transfer the records on a case is minimal, probably no more than a day or two. Therefore, the 15 days is a rather liberal amount of time to effectuate the transference of a case from one QRC to another. This is a needed and reasonable exception to the absolute prohibition against having more than one QRC on a case because it recognizes the natural need for transition when a case goes from one QRC to another.

R.S. 18 C. 5. This rules provides another exception to having more than one QRC on a case. It indicates that when a case is involved in litigation that another QRC may participate in the case by providing evaluation, if requested, by one of the parties. Therefore, it allows the existing

practice of QRC's acting as expert witnesses in worker compensation litigation involving rehabilitation issues. It does, however, require that notification be given to Rehabilitation Services when such testimony is going to be given. This is needed and reasonable because it allows for Rehabilitation Services to monitor when such expert testimony is being given, and to insure that there is not more than one QRC on a case at any given time.

R.S. 18 C. 6. Because of the adversarial roles in litigation, an individual who is a QRC that testifies may not be the on-going QRC because of the bad feelings which can result. This rule is needed and reasonable because all parties must agree on an expert witness QRC actually performing the function of a QRC on a case. If in fact the employee and the other parties do not mind that a QRC testified and wants that individual to function as the QRC on the case, such permission will theoretically avoid any hard feelings among the parties. Therefore, the requirement that permission is granted is needed and reasonable because it will assist in implementing the overall intent of protecting the employee's interest in the rehabilitation process.

R.S. 18 C. 7. This rule is needed and reasonable because it allows the rehabilitation provider to make appropriate recommendations to the correct resource for the employee's needs. It is needed because it allows sufficient discretion to the rehabilitation provider in making such a determination. It is reasonable because it is impossible to specifically require the consultant or the vendor to act in any specific way because of the nature of rehabilitation.

R.S. 18 C. 8. It is essential for the integrity of the rehabilitation process that rehabilitation providers not function in an adversarial role of claims agent. This role directly contradicts their job as provider of services to benefit the employee.

Also, if such claims functions are offered leading to litigation, it gives rehabilitation providers' future evaluations credibility problems. A rehabilitation professional must choose either to exclusively offer rehabilitation

services as governed by these rules or to function solely as a claims agent or adjustor for parties to rehabilitation. This rule is needed and reasonable because it preserves that distinction which is essential to protect the employee's interest in gaining effective and non-biased rehabilitation services and advice. Furthermore, another rule specifically requires all rehabilitation providers to be exclusively self-employed or employed by only one employer.

R.S. 18 D. 1. This rule is needed and reasonable because it sets forth basic requirements of reports filed with the Division of Rehabilitation Services. It is needed because it sets forth basic information necessary to identify not only the file but the individual on the case. It is reasonable because the requirements are neither onerous or burdensome in any way whatsoever. These requirements logically flow from the need to organize various information submitted to Rehabilitation Services.

R.S. 18 D. 2. The reports are required to be submitted in the format in accordance with the forms prescribed by the commissioner. The commissioner was given authority in Minnesota Laws, 1983, Chapter 178, Section 165 to prescribe forms for rehabilitation services. Therefore it is needed and reasonable to reference such forms to one which are prescribed by the commissioner.

R.S. 18 D. 3. It is needed and reasonable that the employer, who in fact is the payor for the entire rehabilitation process, to have documents corroborating all the aspects of rehabilitation. It is reasonable that those forms go to the employer so that they can be kept informed of what is going on in getting the employee back to work. This rule is needed because many times the employer has been frozen out of the rehabilitation process. He has not been able to comment on the rehabilitation plan because they have known little or nothing about what is going on.

R.S. 18 D. 4. This rule is needed and reasonable because often times the vendors have not submitted reports directly to the QRC, but instead have submitted them to the insurer or sometimes even to the employee. It is needed to have these reports go to the QRC because they in fact are the managers of rehabilitation. They need this information to

determine the progress of the employee who is going through rehabilitation. It is reasonable to have this requirement because these reports must be sent to parties involved in rehabilitation. Requiring this process to include the QRC is only really one more form which has already been created.

R.S. 18 D. 5. Of course, QRC's and vendors have responsibilites under the Data Privacy Law to not reveal any information which there are not appropriate releases for. This rule is needed and reasonable because it is a reminder to those rehabilitation providers that they are bound by these provisions and must follow them accordingly.

R.S. 18 D. 6. This rule is needed and reasonable because it references the preceding rule dealing with data privacy by indicating that a rehabilitation provider may not contact and discuss an employee's case without release form from that employee. This is needed to avoid any unauthorized communication occurring between the rehabilitation provider and the physician. It is reasonable because this is standard practice currently in the field. It is not onerous or burdensome in any way.

R.S. 18 D. 7. This rule is needed and reasonable because the rehabilitation provider in dealing with the causes and effects of rehabilitation shall not comment on a largely legal decision of whether or not the employee wishes to or should retire at any particular point in rehabilitation. However, this issue is raised because of the employee's age, interest and the rule provides for referring the employee to appropriate resources to discuss this choice between retirement or returning to work. Since a recommendation on having an employee retire can dramatically affect his workers' compensation benefits, a rehabilitation provider could be abrogating the role of an attorney on the workers' compensation claim. Therefore, it is reasonable that such advice not be rendered by rehabilitation providers. It is reasonable to defer this decision and discussion to the professionals who are competent to discuss it with the employee.

R.S. 18 D. 8. This rule is needed because in certain instances, rehabilitation providers in the past have recommended legal advice to the injured employee. They have rendered opinions on whether or not a settlement of a workers' compensation claim would be appropriate at a given time during rehabilitation. This rule prohibits such advice from being given because it should be rendered by of the employee's attorney. Such a rule is reasonable in that the rehabilitation provider is not competent to render what is clearly legal advice to the injured worker. Therefore, such advice should not be rendered by a rehabilitation provider to an employee.

R.S. 17 D. 9. This rule is necessary so that the integrity of the rehabilitation profession is not compromised by rehabilitation providers engaging in claims investigations. This rule is needed because if and when a rehabilitation provider actively participates in claims investigation or processing, they lose their professional, objective role as an evaluator of an injured worker's rehabilitation needs. When a rehabilitation provider becomes an advocate or an agent for one party or another in rehabilitation, they are not serving the interests of the injured worker. This rule is reasonable in that the rehabilitation process cannot be compromised by having professionals in the field engage in adversarial roles.

R.S. 18 D. 10. This rule is needed because Rehabilitation Services must be adequately informed about all aspects of a case involving rehabilitation. Therefore, it is reasonable that all reports relating to the rehabilitation process on that particular case be forwarded to Rehabilitation Services. Rehabilitation Services could not fulfill its role of monitoring and evaluating the overall delivery of rehabilitation without the information contained in these reports.

R.S. 18 D. 11. This rule is needed because in certain instances when a vendor is trying to provide their professional services, they need related medical and rehabilitation reports on a particular case. Without access to these reports, the vendor is severely limited in evaluating whether the treatment they are offering is appropriate. Therefore, it is needed to have access to reports

from the rehabilitation provider. It is furthermore necessary for the vendor to accomplish their objective of rehabilitation to have knowledge of the background of a particular employee's treatment. It is reasonable because the reports have an important relationship to review of rehabilitation.

R.S. 18 E. 1. The purpose of this section of the rule is to insure that the QRC appropriately informs the employee of his rights and responsibilities under rehabilitation. This is needed because it occurs at the initial interview and allows the employee to act accordingly in view of his rights throughout the rehabilitation process. It is reasonable in that requiring a QRC to review these rights and responsibilities with the employee is a necessary precedent to any future dealings that they may have involving the employee's rights regarding rehabilitation.

R.S. 18 E. 2. This section of the rule is needed and reasonable because it requires basic knowledge concerning the workers' compensation law, rules, policies and procedures that relate to rehabilitation services. This is necessary knowledge for a rehabilitation provider to have to appropriately offer professional services to injured workers. If a rehabilitation provider gives out inaccurate information, putting into jeopardy the rights of an injured worker, he or she will be subject to discipline. This is needed to protect the rights of the employee so that he or she does not erroneously rely on inaccurate information supplied by a rehabilitation provider. It is reasonable because the information disseminated by the rehabilitation provider should be accurate to maintain professional services throughout the rehabilitation process.

R.S. 18 E. 3. The purpose of this rule is to mandate that if an issue or problem arises that is unclear to a rehabilitation provider, that they will contact Rehabilitation Services to clarify it. This is needed to insure that Rehabilitation Services is involved in issues which need clarification. It is reasonable that in that rehabilitation providers should not attempt to resolve issues or problems on their own if they are not absolutely certain of the rights and responsibilities of the parties involved. Since Rehabilitation Services

monitors and governs this area, it should in turn act as the arbiter of disputes involving rehabilitation for injured workers.

R.S. 18 E. 4. This section of the rule refers back to the possible ramifications of unprofessional behavior, services or failure to comply with rules under the law. It reaffirms that rehabilitation providers will be subject to discipline if they act in violation of the rules and the law governing rehabilitation. This is needed and reasonable because it reiterates the authority of Rehabilitation Services to regulate this area. It is reasonable in that it further informs rehabilitation providers that they are subject to discipline if they fail to comply with these rules.

R.S. 18 F. 1. This rule is needed to insure that all newly registered rehabilitation providers have minimum information necessary to appropriately provide rehabilitation services. It is reasonable in that it gives a sufficiently lengthy period of time in which the applicant can comply with attending the introductory training session. Therefore, this rule protects the injured worker and the rehabilitation providers by guaranteeing that certain minimum information is communicated early on in their career as a rehabilitation provider.

R.S. 18 F. 2. This rule is needed and reasonable in that it further insures that at least once a year there will be a session that all rehabilitation providers must attend to be informed about trends and changes in the law that impact rehabilitation. This update session requirement protects the rights of the employees in that it further guarantees that their rehabilitation provider has attended at least yearly sessions containing vital rehabilitation information. This rule is reasonable in that annual sessions on the state of the law is clearly reasonable in light of requirements of other professions. This attendance requirement is neither burdensome or onerous to practitioners in the field given the complexity of the area and their need to have current information at all times.

R.S. 18 G. Lines 11-14 This language is needed and reasonable because it provides introductory preface to the following specific rules set forth.

R.S. 18 G. 1. This rule is needed and reasonable because it reaffirms the obligations of the rehabilitation provider to follow all applicable laws and is reasonable in that this burden is already upon the rehabilitation providers. Therefore it is not onerous in any way, shape or form. Furthermore, it reasserts that there is no exemption from any of the applicable federal, state or local laws regulating a rehabilitation provider's business.

R.S. 18 G. 2. This entire section deals with misrepresentation by a rehabilitation provider. It prohibits any misrepresentation of a person's credentials or their duties involved in rehabilitation. It specifically is needed and reasonable in part because it will insure truth in advertising of an individual or as to a firm's skills and credentials. Also, it will insure prospective employees that false promises of benefits, employment advancement or salaries will be punished with disciplinary action. This rule is needed in that it insures a level of truthfulness involving the public and members of the rehabilitation profession. It will force those who may be tempted to occasionally misrepresent themselves to follow these rules accordingly. Furthermore, it is reasonable in that it requires nothing more than honest dealings in regard to the public, an injured employee or prospective employee.

R.S. 18 G. 3. This rule is needed in that it insures that fellow professionals, when they become aware of a violation of these rules, must refer it to Rehabilitation Services. This rule is reasonable in that the burden upon an individual rehabilitation provider is such that it is their own discretion in determining if they believe a violation has occurred. Therefore, at a later date, if an individual could be shown to have had information about a violation but did not report it, they too would be subject to discipline.

R.S. 18 G. 4. This rule is needed and reasonable because it will specifically prohibit any additional profit which could be gained by dealing with particular rehabilitation providers because of indirect money or gifts. Gifts which would be allowed are those that have a fair market value of less than $25. This is needed and reasonable because of instances such as business meetings where one individual may

pay for the other person's lunch or gifts given at Christmas time that would be under the $25 listed here.

R.S. 18 G. 5. This rule is needed because it prevents any surprises for the payor of rehabilitation fees. It is also needed because it mandates specific and detailed reports as to what services were rendered and the amount of time spent on the case. This is helpful in preventing any unnecessary services or overcharging for services by rehabilitation providers. It insures that the fees charged and the services listed as being performed are accurate and have been discussed in advance with the payor of fees. This is reasonable because it is similar practice to many other professions which also are required to discuss fees and report upon services rendered in a prompt and detailed fashion.

R.S. 18 G. 6. This rule is needed because it prevents any employee from being treated as a standardized case. It is wrong to standardize the rehabilitation services for an injured employee. It is essential that an employee receive services tailored uniquely to their needs in any given rehabilitation context. Without individual review and assessment, services could be rendered which are either unnecessary or redundant. It is essential that neither too many nor too little services are provided for an injured worker. This rule seeks to protect the rights of the employee by insuring that they will be evaluated on an individual basis. This rule is reasonable in that the rehabilitation provider dealing with an employee may have contractual agreements setting forth what various services will cost. However, no rehabilitation provider can assume in advance what services are needed for an employee until assessment has occurred.

R.S. 18 G. 7. This rule is specifically needed to prevent a conflict of interest which may benefit a rehabilitation provider, but will detrimentally affect the services rendered an injured worker. If a rehabilitation provider can refer business back and forth between businesses that they have ownership interest in such a referral is clearly not in the best interest of the injured worker. The entire role of the rehabilitation provider is to be objective in determining what services are

needed. Additional financial inducements as to where and to whom referrals should occur attacks the heart of rehabilitation's credibility. This rule specifically deals with the types of arrangements which can destroy the objectivity and credibility of rehabilitation in the eyes of the injured worker, the employer and the insurer.

R.S. 18 G. 8. The reason this rule is needed and reasonable is similar to the immediately preceding rule. Just as QRC's shall not have ownership interest in vendor firms, also neither should QRC's have ownership interest or split fees with health care providers as defined by the new statute. This is reasonable because it will prevent a conflict of interest between the QRC in objectively managing rehabilitation and the inducement to refer business to a health care provider. Therefore, it is reasonable in that it protects the rights of the injured worker, the employer and the insurer to avoid any conflict of interest in referrals.

R.S. 18 G. 9. This rule is needed to clarify that married couples or family members may practice in the rehabilitation or health care area. Their familial relationship shall not be construed as preventing them from being in the same profession. Nevertheless, should married couples or family members have ownership interest or split fees or incur profit in more than their own firm, they will be subject to these rules. This rule is reasonable in that an individual who happens to be married to another rehabilitation provider shall not be assumed to be incurring profit or having ownership interest in another provider purely because of the marriage or family relationship.

R.S. 19 A. 1. This rule is needed because it sets forth in more detail the role of Rehabilitation Services in supervising rehabilitation in the State of Minnesota. It is reasonable in that it is an extension of authority already given by statute as cited in the rule.

R.S. 19 A. 2. This rule is needed in that it asserts the role of the employer/insurer in monitoring paying for rehabilitation. Often employers and insurers have not been aware of the rehabilitation being provided and have objected to the fees for rehabilitation. This rule gives the responsibility for monitoring, as well as paying

for, rehabilitation to employers/insurers. If, because of their involvement in monitoring rehabilitation, they are unhappy about costs or delivery of services, they have the right to request a determination by Rehabilitation Services. This is needed because it provides an objective source to evaluate whether fees are indeed reasonable under these rules. Furthermore, the rule is reasonable in that it provides a informal manner of resolving disputes short of a lawsuit between the parties of rehabilitation. This type of dispute resolution is cheaper and more effective in the long run for participants in rehabilitation. Therefore, such a process and an assignment of responsibility is both needed and reasonable based upon the intent and direction of these rules.

R.S. 19 A. 3. This rule is needed because it mandates that Rehabilitation Services must conduct audits of rehabilitation providers costs and services. This is needed to determine that costs and services are not being delivered in an erroneous or excessively costly manner. The remainder of the rule requires cooperation by the parties regarding costs and services and authorizes an administrative conference to resolve any differences among the parties. Again, this process is an informal dispute resolution procedure that is cheaper and more effective than litigating disputes among the parties. It is needed because it is quicker and more cost effective than litigation. It is reasonable because it involves an equal sharing of information to determine the facts of a particular case.

R.S. 19 B. Line 7-15 This rule is needed because it delegates to the commissioner the authority to review services and fees to determine if they are reasonable and necessary. It requires that the review must include particular factors, but because of unique factors involved, it may include more than these factors in his eventual decision. This is reasonable because the commissioner, by the force of the statute, must have discretion in making eventual determinations as to what is reasonable in regard to rehabilitation services and fees. The following factors given in the succeeding rules provide a framework for determining what is reasonable and necessary in any particular rehabilitation case.

R.S. 19 B. 1. This rule requires that the facts of a particular case, as well as the overall rehabilitation plan, are taken into consideration to determine whether the rehabilitation services were necessary.

R.S. 19 B. 2. This rule is needed and reasonable because it addresses basically the facts of the case to be considered by the Rehabilitation Services division. It would be difficult to determine whether services and fees were appropriate if you did not have the actual amount of time and expense incurred in providing the services. That is why this rule is appropriate. It assists the person evaluating the services and fees to get the basic information regarding the case.

R.S. 19 B. 3. Because each rehabilitation provider must file a fee schedule with Rehabilitation Services, the schedule may be used to determine if fees are charged above and beyond those in a particular case. This rule is needed because it provides a frame of reference as to what are appropriate fees for any given provider. It is reasonable because it does not provide any additional burden on the provider because the fee schedules are already on file with Rehabilitation Services. Therefore, this rule is needed and reasonable because it assists Rehabilitation Services in determining all the facts involved in a particular rehabilitation case.

R.S. 19 B. 4. Clearly, any services which are duplications or could be obtained free elsewhere or are unnecessarily sophisticated are not reasonable or necessary services. Again, this rule is needed and reasonable because it insures that the Rehabilitation Services division obtains all the facts regarding whether or not services and fees were reasonable and necessary. By definition, a service which duplicates a previously performed service is not reasonable or necessary.

R.S. 19 B. 5. If a service is rendered which is not expressly authorized by the party paying for rehabilitation, it is arguably not a reasonable or necessary service. Since the entire framework of rehabilitation demands cooperation among the parties, unauthorized services would arguably be unreasonable and unnecessary. This rule is needed and reasonable because it will determine if

services were offered above and beyond the rehabilitation plan without authorization by the paying parties.

R.S. 19 B. 6. This rule is another fundamental fact gathering requirement of Rehabilitation Services. It requires that the rules and the statute be reviewed to determine if they have been complied with in providing of services and fees.

R.S. 19 B.
Page 15
Line 35, 36
Page 16
Line 1-4

This rule is needed because it prohibits charging for fees which are unnecessary. It is reasonable because such fees by definition are inappropriate and unnecessary.

R.S. 19 C.
Lines 5-9

To appropriately maintain the monitoring function of Rehabilitation Services, it is essential to get information regarding employee cases. This section of the rule is needed because it sets forth the specific information which must be turned in to Rehabilitation Services. This information is needed and is specifically outlined because determining whether or not violations have occurred or exist would be impossible without this information being forwarded. It is reasonable because the information required is that which directly reflects the on-going rehabilitation process as administered by a rehabilitation provider.

R.S. 19 C. 1. This section of the rules specifically lists the evaluation reports required by the QRC which would provide summary information in the basic areas dealing with an employee's rehabilitation. This information is needed to provide a case for future evaluations by Rehabilitation Services of the case file. The information is reasonable because it is the basic information which must be obtained by any rehabilitation provider before delivering services.

R.S. 19 C. 2. This rule is needed because it requires QRC's to provide progress reports in brief summary fashion when necessary. This is reasonable because the requirement is not burdensome. Also, such reports need to be forwarded to other parties. Finally, there is a minimal amount of time spent preparing the reports because they are so brief.

R.S. 19 C. 3. The QRC is charged with coordinating and submitting all reports developed in relation to these progress reports mentioned above. This rule specifically requires such reports be sent in addition to the QRC reports regarding an employee's case. This is needed for Rehabilitation Services to have the full view of an employee's case. It is reasonable because these reports are already generated and are required to be sent to the QRC. For administrative convenience, the QRC has access to all these reports at any time during the case.

R.S. 19 C. 4. If parties other than a registered vendor prepares a report on request of the QRC, such report shall also be forwarded to Rehabilitation Services as outlined in this rule. This is needed so that the entire range of reports generated on any particular case are provided to Rehabilitation Services. This is reasonable because such reports are in the possession of the QRC and make up part of the case file for purposes of evaluation. Furthermore, if a report is not required by Rehabiliation Services, yet one of the parties wants it created, that party requesting the report must pay for it. This rule is needed so that additional reports which go beyond the bounds of rehabilitation are not additionally required of QRC's, increasing the cost of the rehabilitation process. This rule is reasonable because discretionary reports costs should not be borne by the insurance company or employer if they do not want it and it is not required.

R.S. 19 D. This rule sets forth the need for the QRC setting the goal date and estimated cost for a rehabilitation plan. This rule is needed because it provides parameters on the cost and timing of any particular rehabilitation plan. It will assist in reducing rehabilitation costs by making the rehabilitation provider justify any costs or services which go beyond the original goal date and costs. This rule provides additional accountability to the rehabilitation providers when they later on provide additional services above and beyond their additional estimates. This is a reasonable request because it also relates to getting additional authorization for providing such services. If such review is not approved by one of the parties, a review of the additional

costs and time required for rehabilitation may be conducted by Rehabilitation Services.

R.S. 19 E. This rule is for bookkeeping purposes and provides additional facts for purposes of review of a case file. The invoices are needed because they reflect the exact costs. Requiring invoices is reasonable because determining whether services are necessary is not possible unless actual services delivered can be evaluated.

R.S. 19 F. This rule specifically sets forth types of services which shall not be considered reasonable or necessary unless express consent has been gained by the employer/insurer for offering such services. This listing serves as a guide for all those involved in rehabilitation to determine what is not considered appropriate activities to be charged to the employer/insurer in the rehabilitation process. This also provides a guideline for Rehabilitation Services in determining whether or not services are reasonable and necessary.

R.S. 19 F. 1. If the rehabilitation provider accompanies the injured worker to the physician or deals with the physician above and beyond those contacts necessary to implement the plan, such visits and calls are unnecessary. This rule is needed because it specifically deals with a service that can be charged for which drives up the cost of rehabilitation. The rule is reasonable because it specifically separates those services rendered in relation to the plan and those which are not. Therefore, if a rehabilitation provider is assisting the employee towards rehabilitation and accompanys the employee to the physician, such costs are reasonable and necessary.

R.S. 19 F. 2. This rule is needed because it limits the sort of follow-up that can occur by a rehabilitation provider regarding a prospective employer. It is needed because it prevents duplication from having more than one individual involved in job placement at any given time. It is reasonable because such duplication is often unproductive and ends up in creating additional costs for the rehabilitation process.

This rule is needed because it prevents rehabilitation providers from contacting as a

matter of routine each and every employer after an employee has had any contact with a prospective employer. This is not a necessary and productive activity in the majority of employees' job search. In certain cases, this activity may be necessary and productive. For example, it may be important to determine the employee's interviewing skills by discussing such with an employer/interviewer or to ascertain an employee is actually making the employer contacts indicated. This rule does not prevent this but requires a QRC to obtain the insurer's approval.

R.S. 19 F. 3. This rule is needed because general informational questions related to the rules and regulations dealing with rehabilitation should not incur costs to any particular client involved in rehabilitation. Specifically, a rehabilitation provider should not have to have a client pay for their individual education regarding specific rules and regulations of the Department of Labor and Industry. This rule is reasonable because such costs are clearly unnecessary and should not be borne by an injured worker or the insurer/employer.

R.S. 19 F. 4. In attempting to implement parts of the plan, a rehabilitation provider shall not consider attempted phone calls when they are not answered as billable time. Specifically, there is no way to document whether or not such calls took place and therefore it is needed to have such a regulation. Secondly, it is reasonable to not allow such calls to be billed because no actual work toward furthering the plan occurs during such time. Such services can clearly be considered unnecessary.

R.S. 19 F. 5. This rule specifically separates reports which are required under the rules R.S. 18 C. and all other reports. Reports which go beyond the required ones may not be billed to the employer/insurer. This is needed so that superfluous reports do not end up escalating the costs of rehabilitation. There is also a party provision earlier in the rule that if another party requests a specific report not required by the rules, that the requesting party bear the costs of such a report. This rule is reasonable because it prevents additional costs from being

borne by the employer/insurer when such reports cannot be justified as being necessary.

R.S. 19 F. 6. This rule is needed because QRC's should not continue to bill for services rendered when a vendor is dealing with the specific problem of an injured worker. Except for required reports or specific problems, such billing should not occur. It is needed because in some instances a QRC could bill just because the injured worker is still their client, although they are not actively working on the file. This requirement is reasonable. It basically states that the QRC shall not bill for time that they do not spend on the case.

R.S. 19 F. 7. This rule is needed because if one QRC is assigned to an employee, the employer/insurer should not have to pay for additional supervisory personnel or observers to accompany that QRC to an administrative conference. This rule also relates to not having more than one QRC providing services on a case at any one time. It is needed to prevent overcharging and duplication of services to the employer/insurer. It is reasonable in that it is not necessary for more than the QRC assigned to the case to accompany an employee to an administrative conference.

R.S. 19 F. 8. This rule is needed because it prevents charges billed prior to the time an individual is eligible for rehabilitation. It is reasonable because such charges would be speculative and unnecessary since the individual is not truly entitled to rehabilitation until such a determination has been made.

R.S. 19 F. 9. This rule is needed because it prevents duplication of services and overcharging when a case is transferred from one rehabilitation provider to another within the same firm. It is reasonable because such time spent ends up creating a double charge to the employer/insurer and is an unnecessary service and fee.

R.S. 19 F. 10. This rule is needed because it prevents the duplication of charges when one QRC is already assigned to a case. It prevents additional billable hours from being added by an individual in either supervisory, or support staff function to the QRC of record. This is reasonable because

it protects the employer/insurer from having to pay for more than one QRC services at any given time on a case.

R.S. 19 F. 11. This rule is needed because job placement activities can often be stretched out without any progress. This rule requires a review to occur after 90 days if such job placement efforts are to continue. This is needed so that job placement activities do not extend indefinitely. It is reasonable because after 90 days, such a review will determine whether or not the job placement efforts are in the correct direction. Therefore, this rule protects the employer/insurer and employee from unnecessary or misdirected activities by the rehabilitation provider.

R.S. 19 F. 12. Time spent by the rehabilitation provider before an actual appointment should not be billed to the employer/insurer. This is needed because an individual could wait an entire day for an appointment to see a doctor and attempt to bill that time to the employer/insurer. This is a reasonable rule because it deals basically with restricting the billable hours to the time actually spent dealing with the injured worker's problem.

R.S. 19 F. 13 This rule is needed because it prevents again more than one QRC serving on a case at any given time. It has a definite beginning and an end to the time a QRC can bill for a case. This is needed to prevent overcharging or duplicate charging on a case. It is reasonable because such services should not be rendered on a case.

R.S. 19 F. 14 It is clear that this rule is needed so that duplication does not occur in offering services. It is reasonable in that these services are clearly unnecessary and unreasonable based upon the rules set forth above.

R.S. 19 F. 15. This rule is needed because it keeps a limit on what can be charged by a rehabilitation provider for rehabilitation services on a given case. It maintains the same fee for that of rehabilitation as it does for testimony at a hearing. This is appropriate so that the time spent at the hearing does not end up being more important than the time spent on rehabilitation.

R.S. 19 F. 16. This rule is needed to prevent additional travel costs above and beyond those for initial meetings or dealings with interested parties to be billed to the employer/insurer.

R.S. 19 F. 17. If a fee is disputed, it is clearly needed that such a service or fee not be billed to a party. The appropriate procedure is that an administrative conference can be called to resolve the dispute. Therefore, any disputed service for fee must have express permission before it can be billed to one of the parties.

Small Business Considerations in Rulemaking

According to Minnesota Laws 1983, Chapter 188, Section 1, all rulemaking commenced after August 1, 1983 must consider the impact of the proposed rules on small business. The Department of Labor and Industry has considered all the various methods set forth in Minnesota Laws 1983, Chapter 188, Section 1, Subd. 2 to reduce the impact of this rule on small business.

The agency determined that it was not possible to reduce or lessen the compliance or reporting requirements for small business. It would be contrary to the basic statutory objectives of the authorizing legislation to use any of the methods suggested to reduce the impact of these rules on small businesses. Therefore, because the persons and businesses are all classified as small businesses, it is not feasible to use any of the methods set forth in Minnesota Laws 1983, Chapter 188, Section 1, Subd. 2 without frustrating the legislative authority for the rules.

L+I Exhibit # 9

DEPARTMENT OF LABOR AND INDUSTRY

Workers' Compensation Rehabilitation Services

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE WORKERS' COMPENSATION REHABILITATION SERVICES GOVERNING QUALIFIED REHABILITATION CONSULTANTS AND REHABILITATION VENDORS.

STATEMENT OF NEED AND REASONABLENESS OF THE AMENDMENTS TO THE PROPOSED RULES

Subsequent to publication on August 22, 1983 of the notice of a public hearing scheduled for Friday, September 23, 1983, on the above-entitled rules, several written comments on the proposed rules were received by the Commissioner. In light of these comments, amendments were made to the proposed rules for purposes of clarification and specificity. The amendments should be read together with the proposed rules as published in the State Register, copies of which are available at the September 23rd hearing.

1. R.S. 14 B.

The word "Substantiated" has been added to make it clear that denial of registration as a qualified rehabilitation consultant cannot be grounded on pending or trivial complaints.

The words "policies and procedures" were deleted because it was deemed unreasonable to ground a denial of registration on violations of policies and procedures not enacted by law or validly promulgated by rule.

2. R.S. 15 A. 1.

Deletion of the parentheses around the word "notarized" and the new language is for style and grammatical purposes only.

3. R.S. 15 A. 7.

Provisional acceptance predicated upon completion of an introductory training session was included to prevent the possibility that an otherwise qualified applicant would be prevented from practicing under the act until the Division held an introductory training session.

4. R.S. 15 D. This sentence was added in order to cross-reference the applicable appeal provision and to confirm the appbility of an automatic revocation.

5. R.S. 15 E. 1. The word "alleged" is substituted for the word "apparent" to clarify the fact that a violation is not a proven fact at this stage in the process.

The words "notify in writing" were substituted for "write" to clarify the nature of the communication from the commissioner to the qualified rehabilitation consultant or vendor.

6. R.S. 15 E. 1. d. The word "prohibition" is added to clarify the range of discipline.

7. R.S. 15 E. 1. The last sentence of the section was amended because it was deemed more reasonable to limit the process of referring violations to the review panel by means of a time restriction. A five-year period relieves an individual of the possibility of panel review on an old violation while it allows the Department to maintain high standards for the profession. The amendment is less restrictive than the rule as originally proposed.

The word "alleged" was substituted for the word "apparent" to clarify that the allegation of a third violation is sufficient to trigger panel review.

The final substitution in this section makes it clear that the next step in the process is a hearing. The amendment prevents confusion over what an individual or firm might expect by way of discipline after acquiring a record of two violations.

8. R.S. 15 E. 3. Again, for consistency and clarity, the word "alleged" is substituted for "apparent" in reference to the word "violation." See R.S. 15 E. 1. above.

9. R.S. 15 E. 4. The addition confirms the scope of the panel's discretion, but is primarily for stylistic purposes.

10. R.S. 15 E. 4. a. "Alleged" is substituted for "apparent" for the reason articulated in reference to R.S. 15 E. 1 and R.S. 15 E. 3. above.

The last portion of the sentence was deleted because it was self-evident.

11. R.S. 15 E. 4. d. The second portion of this sentence was deleted as redundant. The panel possesses the power to revoke under R.S. 15 E. 4. e.

12. R.S. 18 C. 2. The references to "R-2" and "R-3" are deleted as a stylistic matter.

The last sentence is added in response to comments submitted to the Department requesting confirmation on the point that R.S. 18 C. 2. does not apply to the reinsurance association.

13. R.S. 18 C. 4. The amendment clarifies the time alloted a qualified rehabilitation consultant to transfer a file to a new qualified rehabilitation consultant.

14. R.S. 18 C. 8. The additions are provided to aid a qualified rehabilitation consultant in interpreting the prohibitions of the rule. The last sentence is added to parallel the clarification of R.S. 18 C. 2.

15. R.S. 18 D. 2. The words "policy, procedure" are deleted to parallel the deletion in R.S. 14 B. The statutory reference is made as a matter of specificity and style.

16. R.S. 18 D. 9. The last sentence is deleted as redundant in view of the prohibition of R.S. 18 C. 8.

17. R.S. 18 D. 10. The amendments to the first sentence are made to clarify the intent that the rule applies only to the assigned qualified rehabilitation consultant.

The last sentence is added to parallel the clarification of R.S. 18 C. 2.

18. R.S. 18 E. 1. The amendments to the rule are made as a stylistic matter and to clarify the requirements of the rule.

19. R.S. 18 E. 2. The deletion is made to parallel the deletions of R.S. 14 B. and R.S. 18 D. 2.

20. R.S. 18 E. 3. "Shall" is amended to "may" to avert the possible interpretation that all issues or problems must be clarified with rehabilitation services.

21. R.S. 18 E. 4. The deletion is made to parallel the deletions of R.S. 14 B., R.S. 18 D. 2. and R.S. 18 E. 2.

22. R.S. 18 F. 1. The amendment is made as a matter of style.

23. R.S. 18 G. 2. The last sentence is deleted as beyond the jurisdiction of the Act.

24. R.S. 18 G. 3. The amendment makes the rule more specific and clarifies that the rehabilitation provider must have actual personal knowledge of a violation before the rule applies.

25. R.S. 18 G. 8. The amendment is made as a stylistic matter to clarify the prohibition of the rule.

26. R.S. 19 B. The deletion is made to parallel the deletions of R.S. 14 B., R.S. 18 D. 2., R.S. 18 E. 2. and R.S. 18 E. 4.

27. R.S. 19 C. The amendment to the first sentence is made to parallel the clarification of R.S. 18 D. 10.

The second sentence is added to parallel the clarifications of R.S. 18 C. 2. and R.S. 18 D. 10.

28. R.S. 19 C. 1. d. The amendment is made as a stylistic matter.

29. R.S. 19 D. The fifth sentence is amended to clarify the circumstances under which a party may request a review by rehabilitation services.

30. R.S. 19 F. 1. The amendment is made as a stylistic matter.

31. R.S. 19 F. 3. The addition is made to parallel the prohibitions of the entire section and to clarify the intent of the section.

32. R.S. 19 F. 5. The amendment clarifies the intent of the prohibitions of the section.

33. R.S. 19 F. 7. The amendment clarifies the intent of the prohibitions of the section.

34. R.S. 19 F. 10. The addition parallels the clarification of R.S. 18 D. 10. and R.S. 19C.

35. R.S. 19 F. 12. The amendment clarifies the intent of the prohibitions of the section.

STATE OF MINNESOTA

DEPARTMENT OF Labor and Industry

In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, [Special Assistant Attorney General] Kathleen L. Winters, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with 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. Any exceptions are noted below:

[Special Assistant
Attorney General]

Dated: December 16, 1983

In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Mary E. Renz, being first duly sworn, deposes and says:

That on the 20th day of December, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the [State of Minnesota Central Mail System for United States mailing (or) United States mail] at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Mary E Renz

Subscribed and sworn to before me
this 20 day of December, 1983.

Jeanne Gehrman

JEANNE A. GEHRMAN
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires May 25, 1985

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Adoption of Rules of the State Department of Labor and Industry, Governing Qualified Rehabilitation Consultants and Rehabilitation Vendors

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.16:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this 20th day of December, 1983, for review as to form and legality. Pursuant to 1 MCAR § 1.206 A., the Attorney General will not approve the rules for at least 10 calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Gladys Westberg.

Steve Keefe

Steve Keefe
Commissioner