

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1160

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-16-85
DATE FOR REVIEW 5-25-85
DATE DUE 5-30-85

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

Approved 5-29-85 mjc Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 5-29-85 Revisor approved _____ disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR.

✓ Order Adopting 5.9.85. Date

✓ Notice of Intent to Solicit Outside Opinion SR. 12.17.84

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
4.3.85. At least 30 days prior to ~~hearing~~/adoption
Affidavit of Additional mailing.

✓ Mailing list Certificate

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

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

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

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-04

DEPARTMENT : Human Services

PHONE : 7-2403

DATE : May 15, 1985

TO : Judith Wehrwein
A.G. - Administration

FROM : Rae Bly RBly
DHS Rulemaking

STATE OF MINNESOTA

Office Memorandum

RECEIVED

MAY 16 1985

ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SUBJECT : Attorney General Review of Rules Relating to Relocation of Residents of Nursing Homes and Certified Boarding Care Homes

Minnesota Rules, parts 9546.0010 to 9546.0060, have been promulgated in accordance with the noncontroversial rulemaking procedures of Minnesota Statutes, sections 14.22 to 14.28.

The following documents are enclosed for your review as required by Minnesota Statutes, section 14.26, and Minnesota Rules, part 2000.0400:

1. Notice of Intent to Solicit Outside Opinion;
2. Order for Notice of Intent to Adopt a Rule Without Public Hearing, signed by the commissioner;
3. Mailing List Certificate;
4. Findings of Fact and Conclusions, signed by the commissioner;
5. Statement of Need and Reasonableness;
6. Certificate of Compliance with Rulemaking Procedures;
7. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing, and an Affidavit of Additional Mailing;
8. Rule as Proposed;
9. Original and three copies of the Rule as adopted; and
10. two copies of the Order Adopting, signed by the commissioner.

No written comments were received in response to either the Notice of Intent to Solicit Outside Opinion or the Notice of Intent to Adopt a Rule Without Public Hearing, and there were no requests for notification of submission to the Attorney General.

Please call me if you have any questions or if I may be of assistance.

Thank you for your attention.

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: LEONARD W. LEVINE, Commissioner
Department of Human Services

DATE: 5-29-85

ATTN: LAWRENCE M. SCHULTZ
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Relating to the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes.

The above-referenced rule has been approved as to its legality by the Attorney General on May 29, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:sz

Enclosures

cc: Executive Director
Legislative Commission to Review
Administrative Rules

Chief Administrative Law Judge
Office of Administrative Hearings

AG copy

Department of Human Services

Adopted Rules Relating to Relocation of Residents of Nursing Homes and Certified Boarding Care Homes

Rules as Adopted

9546.0010 APPLICABILITY.

Parts 9546.0010 to 9546.0060 govern the services that local agencies are required to provide for the benefit of residents of facilities when there are relocations. Parts 9546.0010 to 9546.0060 must be read in conjunction with [7 MCAR S 1.801 [Temporary]] for information regarding the relocation responsibilities of facilities.

9546.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9546.0010 to 9546.0060, the following terms have the meanings given them.

Subp. 2. **Certification level.** "Certification level" means the level of care, whether skilled or intermediate, which a facility is certified to provide under Code of Federal Regulations, title 42, sections 442.100 to 442.112.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 4. **County relocation committee.** "County relocation committee" means those staff persons of the local agency designated by the county social service director to serve as the relocation committee in the responsible county.

Subp. 5. **Facility.** "Facility" means a certified boarding care home licensed under Minnesota Statutes, sections 144.50 to 144.56 and certified as an intermediate care facility as defined in United States Code, title 42, section 1396d, as amended through December 31, 1982, or a nursing home licensed under Minnesota Statutes, sections 144A.02 to 144A.10. Facilities for the mentally retarded as defined in United States Code, title 42, section 1396d(d), as amended through December 31, 1982, are

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OFFICE BY:

excluded.

Subp. 6. **Local agency.** "Local agency" means the county or multi-county agency authorized under Minnesota Statutes, sections 393.01, subdivision 7 and 393.07, subdivision 2 as the agency responsible for providing social services.

Subp. 7. **Medical assistance.** "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 8. **Medicare.** "Medicare" means the health insurance program for the aged and disabled under title XVIII of the Social Security Act.

Subp. 9. **Relocation.** "Relocation" means the discharging of residents from a facility as a result of its closing, its loss of or change in certification, or termination of its medical assistance provider agreement.

Subp. 10. **Resident.** "Resident" means a person admitted to a facility.

Subp. 11. **Responsible county.** "Responsible county" means the county where the facility is located from which the residents will be discharged.

Subp. 12. **Swing bed.** "Swing bed" means a licensed bed in an acute care hospital that has approval from the Health Care Financing Administration to furnish intermediate care or skilled nursing facility services under the Medicare program, as provided under Code of Federal Regulations, title 42, sections 440.40(a) and 440.150(f).

9546.0030 PROCEDURE UPON NOTIFICATION.

The local agency and its county relocation committee shall begin the process provided in parts 9546.0040 to 9546.0060 immediately upon receipt of written notification of the need for relocation from the facility, as provided in 7 MCAR S 1.801 [Temporary], item C, subitem b.

9546.0040 RELOCATION PLANNING.

Subpart 1. **County relocation committee.** The director of the local agency in a responsible county shall designate

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appropriate staff as the county relocation committee. The committee must be large enough to meet its responsibilities within the time limits in parts 9546.0030 to 9546.0060. Members of the county relocation committee must be knowledgeable about the needs of residents, and the local resources available to meet those needs including medical assistance and Medicare.

Subp. 2. **Alternative resources.** The county relocation committee shall develop a procedure to identify and monitor the current availability of alternative resources which may be used when a facility's residents must be relocated. These resources must include at least the following:

A. a list of unoccupied beds in other facilities within the county and in neighboring counties; this list must contain the following information about each facility:

(1) the name, address, and telephone number of the facility;

(2) the certification level of the available beds;

(3) the type of services available within the facility; and

(4) the number of beds that are available;

B. a list of alternative placements which includes swing beds in hospitals and foster care placement;

C. a list of the community and in-home health and social services which may be used on a temporary basis;

D. a list of transportation resources;

E. a list of volunteer resources; and

F. the name, address, and telephone number of the appropriate regional ombudsman from the long-term care ombudsman program of the Minnesota Board on Aging.

9546.0050 RELOCATION ASSISTANCE.

Subpart 1. **Resident information.** The county relocation committee shall obtain from the facility the name of each resident to be relocated, the name, address, and telephone number of either a family member or the individual legally responsible for the resident's care, and the name and telephone number of the individual in the facility to be contacted for

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further information. This information must be obtained at least 60 days before the date by which relocation is to be completed.

Subp. 2. **Coordination of relocation.** The county relocation committee shall designate one of its members as a liaison to the individual in the facility responsible for coordinating the relocation. The county designee shall meet with appropriate staff from the discharging facility to coordinate the relocation assistance offered by the county relocation committee with the relocation responsibilities of the facility. This coordination must include participating, as requested, in any group meetings of residents and their families to explain the steps being taken in arranging for the relocation of residents.

Subp. 3. **Offer of assistance.** The county relocation committee shall provide a written offer of relocation assistance to each resident to be relocated and to his or her family member, and if applicable, to the person legally responsible for his or her care. The written offer of assistance must contain, at least, an explanation of the relocation services offered by the county relocation committee, and the name, address, and telephone number of the individual to contact to request further information or assistance.

Subp. 4. **Relocation services.** The county relocation committee shall arrange for or provide, as necessary, the following minimum services for residents to be relocated to ensure their placement or other alternative care:

A. accurate and up-to-date information about the alternative arrangements for the care of the resident, including all the resources identified in part 9546.0040, subpart 2;

B. help in choosing among the available alternatives;

C. counseling to enable the resident to adjust to the relocation;

D. help in preparing the resident for the actual move which includes:

(1) providing written information about the new facility to the resident;

(2) providing an opportunity for the resident to visit the new facility to learn the physical layout, meet other residents and staff, and learn about the program and activities; and

(3) encouraging a visit by staff and residents from the new facility to the resident before the actual relocation, if a site visit by the resident is not possible;

E. help in arranging for necessary transportation; and

F. assurance that someone accompanies the resident during the actual move.

Subp. 5. **Follow-up visit.** A member of the county relocation committee shall visit the resident within 30 days after the relocation. The committee member shall interview the resident or observe him or her onsite, or both, and review and discuss pertinent medical or social records with appropriate staff to:

A. assess the adjustment of the resident to the new living environment; and

B. recommend services or methods to meet any special needs of the resident arising out of relocation.

9546.0060 REPORTING.

Subpart 1. **Initial report.** The local agency shall submit a written report to the commissioner within one week after the date of receipt of the written notice of the need to relocate residents. The initial report must contain the following information:

A. the names and phone numbers of the county relocation committee members;

B. a description of the procedure developed to identify and monitor the availability of resources which may be used to meet the needs of the residents to be relocated; and

C. a timetable for the completion of the relocation process.

Subp. 2. **Status reports.** During a relocation process the county relocation committee shall provide weekly status reports

to the commissioner. The status reports must include the number of residents relocated during the week, the date each resident is relocated, and the new placement of each resident. The reports must also identify any problems met during the relocation process.

Subp. 3. **Summary report.** The county relocation committee shall provide a summary report to the commissioner within 60 days after the completion of a facility's relocation. The summary report must include:

A. the number of residents relocated;

B. the medical assistance identification number of each medical assistance recipient relocated;

C. the date each resident was relocated;

D. the new placement of each resident;

E. the status of each resident at the time of the follow-up visit; and

F. the identification of problems met during the relocation process.

REVISOR OF STATUTES

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 29 1985
Joan Anderson Growe 9:40 AM
Secretary of State

APPROVED AS TO FORM AND LEGALITY
May 29 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Relating to the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes

ORDER ADOPTING RULES

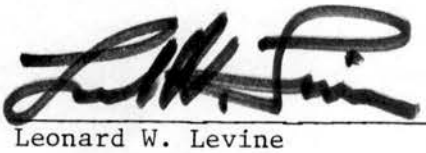
Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on April 8, 1985, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statues, sections 14.14, subdivision 1, paragraph (a), and 14.22, on April 3, 1985.

All interested and affected persons were given the opportunity to submit comments for 30 days after notice of proposed rulemaking. No submissions or comments on the rule or requests for notice of submission to the attorney general were received.

After reviewing and considering the record, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Relating to the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes, Minnesota Rules, parts 9546.0010 to 9546.0060, are adopted this 9th day of May, 1985, pursuant to authority vested in me by Minnesota Statutes, section 144A.31, subdivision 4.

STATE OF MINNESOTA



Leonard W. Levine
Commissioner of Human Services

Dated: 5/9/85

waste disposal facility a statement of exemption requesting the 50 percent reduction. The statement must be on a form designed by the commissioner.

The statement of exemption must be signed and dated by the operator and attached to the report upon which the exemption is taken. The exemption must be claimed on the report for the month that it is allowed to the energy and resource recovery facility.

Subp. 2. Metalcasting facilities. For the period January 1, 1985, to December 31, 1987, nonhazardous solid waste from metalcasting facilities are not taxable if a statement of exemption is presented to the operator at the time the waste is brought to the facility. The form will be designed by the commissioner. The operator shall sign and date the statement of exemption and attach it to the operator's monthly report.

Subp. 3. Operating waste. When solid waste that is accepted at a mixed municipal solid waste facility is not disposed of in the body of the facility, but is to be used in the operation of the facility; for example, daily or final cover, lining material, and road bed, the solid waste may be exempt from the amount of fee charged. The generator of waste qualifying for this exemption must first obtain approval of the Minnesota Pollution Control Agency as to the suitability of the material for the intended use.

Upon receipt of authorization for the exemption from the Pollution Control Agency, the commissioner will provide the generator with an appropriate statement of exemption. The commissioner may revoke an exemption upon a finding that the use of the material is not consistent with the use for which the exemption was granted.

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.

Office of the Attorney General
Consumer Division

Public Meeting Concerning Legal Rights and Obligations of Owners and Tenants of Rental Dwellings

The Minnesota Attorney General's Office, Consumer Division, will hold a public meeting on Monday, January 14, 1985, at 7:00 p.m., to receive comments on the content of the statement it has prepared in compliance with Minn. Stat. § 504.22. Section 504.22, subd. 2a, requires the Attorney General to "prepare and make available to the public a statement which summarizes the significant legal rights and obligations of owners and tenants of rental dwelling units" and to "hold a public meeting to discuss the statement and receive comments on its contents before it is issued."

The meeting will be held in Room D (5th Floor) of the Veterans Services Building, 20 West 12th Street, St. Paul, Minnesota.

Department of Human Services

Outside Opinion Sought Concerning Proposed Rules Governing the Relocation of Nursing Home Residents

Notice is hereby given that the Minnesota Department of Human Services is considering the adoption of 12 MCAR § 2.04601 [Temporary] as a permanent 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.

This rule is authorized by Laws of Minnesota 1983, chapter 199, section 5, subdivison 4, and governs the services that local social service agencies are required to provide for the benefit of residents of long-term care facilities when there are relocations.

There are no proposed changes in the rule.

All interested or affected persons or groups are requested to participate. Statements of information and comments may be made orally or in writing. Written statements of information and comments may be addressed to:

Barbara Doherty
Department of Human Services
Adult Protection Consultant
4th floor—Centennial Building
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-4019.

All statements of information and comments will be accepted until further notice is given. Any written material received by the Department shall become part of the rulemaking record.

Metropolitan Council

Public Hearing on a Revision to the Air Quality Control Plan Supplement to the Transportation Chapter of the Metropolitan Development Guide

The Metropolitan Council will hold a public hearing Thursday, January 3, 1985, at 7:00 p.m. at the Hamline Branch Library, 1558 West Minnehaha, St. Paul, Minnesota, on a draft revision to its Air Quality Control Plan. The revision recommends the City of St. Paul change traffic signal timing in the vicinity of Snelling and University Avenues in order to meet federal Air Quality Standards for Carbon Monoxide by 1987. All interested people are encouraged to attend the hearing and offer comments. People may register to speak in advance by contacting Ann Braden of the Council's Transportation Planning staff at 291-6525. Questions on the proposed revision should also be directed to her. Copies of the draft Air Quality Control Plan are available free of charge from the Council's Communications Department at 291-6464. Copies are also available for public inspection beginning December 7 at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul, Minnesota 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis, Minnesota 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth Street
St. Paul, Minnesota 55102

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, Minnesota 55434

Carver County Library—Chaska Branch
314 Walnut Street
Chaska, Minnesota 55318

Dakota County Library—Burnsville Branch
1101 West County Road 42
Burnsville, Minnesota 55337

Hennepin County Library—Southdale Branch
7001 York Avenue
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch
2180 North Hamline Avenue
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch
235 South Lewis Street
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch
7520-80th Street South
Cottage Grove, Minnesota 55106

Sandra S. Gardebring, Chair
Metropolitan Council

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING RELOCATION OF NURSING HOME RESIDENTS, MINNESOTA RULES, PARTS 9546.0010 TO 9546.0060

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED THIS 21st day of March, 1985 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Human Services for that purpose and be published in the State Register.

STATE OF MINNESOTA

LEONARD W. LEVINE, Commissioner
Department of Human Services

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING RELOCATION OF NURSING HOME RESIDENTS, MINNESOTA RULES, PARTS 9546.0010 to 9546.0060

AFFIDAVIT OF MAILING

Ann M. Berg, being first duly sworn, deposes and says:

That on the 3rd day of April, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules without a Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, 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 Department of Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department.

Ann M. Berg

Subscribed and sworn to before me

this 4 day of April, 1985.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES SEPTEMBER 26, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING RELOCATION OF NURSING HOME RESIDENTS, MINNESOTA RULES, PARTS 9546.0010 TO 9546.0060

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services proposes to adopt the above-entitled rules without a public hearing unless twenty-five or more persons submit written requests for a public hearing. The Department has determined that the proposed rules are noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21-14.28.

Interested persons shall have 30 days (or until May 8, 1985) to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A PUBLIC HEARING WILL BE HELD ACCORDING TO MINNESOTA STATUTES, SECTIONS 14.25-14.28.

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

Barbara Doherty
Adult Protection
Minnesota Department of Human Services
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone (612) 296-4019

Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

The statutory authority of the Department for the proposed rules is contained in Minnesota Statutes, section 144A.31, subdivision 4.

Minnesota Rules, parts 9546.0010 to 9546.0060 establish procedures that a local social service agency must follow when a long-term care facility within the county will be discharging residents as a result of the facility's closing, its loss of or change in certification, or termination of its medical assistance provider agreement. No additional personnel will be required as a result of the adoption of these rules. Local agencies are required to implement these rules only upon notification that a nursing home or certified boarding care home located in their county is about to relocate residents.

Parts 9546.0010 to 9546.0060 are proposed for adoption as permanent rules to replace 12 MCAR SS 2.04601-2.04606 [Temporary]. The proposed permanent rules implement the recommendations of the Relocation Task Force and the expressed requirements of the Minnesota Legislature, and are substantially the same as the temporary rules. Notice of Intent to Solicit Outside Opinion was published in the State Register on December 17, 1984, and no comments have been received.

Parts 9546.0010 to 9546.0060 include a statement of applicability; a definition section; procedure to follow upon notification of relocation; relocation planning requirements; relocation assistance requirements; and reporting requirements.

Copies of the proposed rules are now available and at least one free copy may be obtained upon request from:

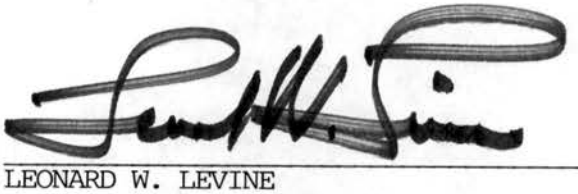
Barbara Veronen
Department of Human Services
Fourth Floor, Centennial Office Building
St. Paul, Minnesota 55155
Telephone (612) 296-2673

A Statement of Need and Reasonableness that describes the need for and the reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is also available from Barbara Veronen upon request.

The cost to local public bodies of implementing the proposed rules will not exceed $100,000 for either of the first two years following passage of the rules.

If no hearing is required, the Department shall submit to the Attorney General the proposed rules and notice as published in the State Register, the rules as proposed for adoption, any written comments received by the Department and the Statement of Need and Reasonableness. On the same day that these materials are submitted to the Attorney General, the Department shall give notice to all persons who requested to be informed of this submittal. If you wish to be notified of the date of submission of the proposed rule to the Attorney General, contact Barbara Doherty.

Dated: March 25, 1985



LEONARD W. LEVINE
Commissioner of Human Services

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING RELOCATION OF NURSING HOME RESIDENTS, MINNESOTA RULES, PARTS 9546.0010 TO 9546.0060

AFFIDAVIT OF ADDITIONAL MAILING

Ann M. Berg, being first duly sworn, deposes and says:

That on the 3rd day of April, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Intent to Adopt Rules Without a Public Hearing to all persons and associations who have requested that their names be placed on file for the purpose of receiving notice of the proposed adoption of rules by this Department, she also served the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to the following agencies:

See attached list

Ann M. Berg

Subscribed and sworn to before me

this 4 day of April, 1985.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES SEPTEMBER 26, 1990

Additional Mailing

DPW Relocation Task Force

Chairperson

Karin Sandstrom, Director
Program Development
Minnesota Board on Aging
204 Metro Square Building
7th and Robert Streets
St. Paul, MN 55101
296-2062

Clarice Seufert
Health Systems Division
Minnesota Department of Health
717 Southeast Delaware
Minneapolis, MN 55440
296-5420

Marlene Deschler
TC & T Section
Minnesota Department of Health
717 Southeast Delaware
Minneapolis, MN 55440
296-5447

Grace Nelson
Minnesota Senior Federation
7500 York Ave. So., Apt. 307
Edina, MN 55435
831-5867

Grace Wilson
Friends and Relatives of
Nursing Home Residents
4271 Sheridan Ave. So.
Minneapolis, MN 55410
922-1398

Dr. Pat Irvine
Department of Medicine
St. Paul Ramsey Hospital
640 Jackson St.
St. Paul, MN 55101
221-2728 or 3464

Eileen Christensen
Independence Assistance Supervisor
Scott County Human Service
699 County Road 83
Shakopee, MN 55379
445-7750

Nadine Jacobson
Adult Placement
Hennepin County Welfare Department
A-1300 Government Center
300 So. 6th Street
Minneapolis, MN 55487
348-6397

Chris Christensen
Box 982
Minneapolis, MN 55440
922-9191

Eric Janus
c/o Legal Aid Society
222 Grain Exchange Bldg.
323 4th Ave. So.
Minneapolis, MN 55415
332-1441

Dave Rous
St. Louis County Human Services
Nopeming Nursing Home
Nopeming, MN 55770
(218) 628-2381

Laurie Davison, Attorney
Legal Services to the Elderly
Legal Aid Society of Minneapolis
222 Grain Exchange Bldg.
323 4th Ave. So.
Minneapolis, MN 55414
332-1441

Virginia Reher, Supervisor
Adult Protection Services
Ramsey County Welfare Department
160 E. Kellogg Blvd.
St. Paul, MN 55101
298-5451

Staff

Jim Varpness
~~Pamela Parker~~, Long Term Care Ombudsman
Minnesota Board on Aging
Suite 204 Metro Square Bldg.
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296-7465

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Minneapolis, MN 55408
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Maria Gomez
Planning and Development
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296-5724

Ed Corbett
Nursing Home Residents Advisory Council
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Minneapolis, MN 55408
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Charlene Seavey, Supervisor
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Minneapolis, MN 55404
871-7112

Consultant

Dr. Norman Bourestom
1751 Cherry Lane
St. Cloud, MN 56301

Long Term Care Ombudsman Programs

Northwest:

Northwest Ombudsman Program
Zeh and LaBree Avenue S.
Thief River Falls, Minnesota 56701
(218)681-6497 Ombudsman: Jane Croeker

Northwest Ombudsman Program
City Hall
Fergus Falls, Minnesota 56537
Ombudsman: Jeanne Jacobs

Northeast:

Northeast Area Long Term Care Ombudsman Program
Senior Citizens Coalition of Northeastern Minnesota
407 West Superior Street
Duluth, Minnesota 55806
(218)727-0207 Ombudsman: Sally Maxwell

and

Legal Aid Services of Northeastern Minnesota
204½ Chestnut Street
Virginia, Minnesota 55792
(218)749-3270 Ombudsman: Merline Kawamba

Central:

Central Minnesota Senior Federation
Long Term Care Ombudsman Project
1900 Minnesota Blvd.
St. Cloud, Minnesota 56301
(612)253-3257 Ombudsman: Susan Evens

Metro Area:

Nursing Home Residents Advocates
3231 First Avenue South
Minneapolis, Minnesota 55408
(612)825-6861 Director: Iris Freeman

Southcentral:

Southcentral Area Ombudsman Program
Southern Minnesota Regional Legal Services
529 South Fifth Street
Mankato, Minnesota 56001
(507)625-2216 Ombudsman: Gordon Patterson

Southeast:

Southeast Long Term Care Ombudsman Program
Southern Minnesota Legal Services
400 Exchange Building
Winona, Minnesota 55987
(507)454-6660 Ombudsman: Luisa Rybicki

Southwest:

Southwest Area Ombudsman Program
Mid-Minnesota Legal Assistance
244 West Main Street
Marshall, Minnesota 56258
(507)537-0785 Ombudsman: Del Kindschi

State Office:

Minnesota Board on Aging
204 Metro Square
7th and Robert Streets
St. Paul, Minnesota 55101

Toll-Free Number: 1-800-652-9747

James G. Varpness
Long Term Care Ombudsman
(612)296-7465

Sharon Zoesch
Assistant Long Term Care Ombudsman
(612)296-7467

DIRECTORY

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Headwaters Regional Development Commission
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Arrowhead Regional Development Commission
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Staples, MN 56479
218/894-3233

Kathleen McCormick, Director
Six East Area Agency on Aging
Six East Regional Development Commission
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Willmar, MN 56201
612/235-8504

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Upper Minnesota Valley Area Agency on Aging
Upper Minnesota Valley Regional Development Commission
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Region Seven Area Agency on Aging
East Central Regional Development Commission
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Mora, MN 55051
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St. Cloud, MN 56301
612/253-9349

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507/836-8549

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LaRhae Knatterud, Director
Region XI Area Agency on Aging
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St. Paul, MN 55101
612/291-6497

Willa Beaulieu, Coordinator
Minnesota Chippewa Tribe Area Agency on Aging
P.O. Box 217
Cass Lake, MN 56633
218/335-2252

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING RELOCATION OF NURSING HOME RESIDENTS, MINNESOTA RULES, PARTS 9546.0010 TO 9546.0060

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services proposes to adopt the above-entitled rules without a public hearing unless twenty-five or more persons submit written requests for a public hearing. The Department has determined that the proposed rules are noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21-14.28.

Interested persons shall have 30 days (or until May 8, 1985) to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A PUBLIC HEARING WILL BE HELD ACCORDING TO MINNESOTA STATUTES, SECTIONS 14.25-14.28.

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

Barbara Doherty
Adult Protection
Minnesota Department of Human Services
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone (612) 296-4019

Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

The statutory authority of the Department for the proposed rules is contained in Minnesota Statutes, section 144A.31, subdivision 4.

Minnesota Rules, parts 9546.0010 to 9546.0060 establish procedures that a local social service agency must follow when a long-term care facility within the county will be discharging residents as a result of the facility's closing, its loss of or change in certification, or termination of its medical assistance provider agreement. No additional personnel will be required as a result of the adoption of these rules. Local agencies are required to implement these rules only upon notification that a nursing home or certified boarding care home located in their county is about to relocate residents.

Parts 9546.0010 to 9546.0060 are proposed for adoption as permanent rules to replace 12 MCAR SS 2.04601-2.04606 [Temporary]. The proposed permanent rules implement the recommendations of the Relocation Task Force and the expressed requirements of the Minnesota Legislature, and are substantially the same as the temporary rules. Notice of Intent to Solicit Outside Opinion was published in the State Register on December 17, 1984, and no comments have been received.

Parts 9546.0010 to 9546.0060 include a statement of applicability; a definition section; procedure to follow upon notification of relocation; relocation planning requirements; relocation assistance requirements; and reporting requirements.

Copies of the proposed rules are now available and at least one free copy may be obtained upon request from:

Barbara Veronen
Department of Human Services
Fourth Floor, Centennial Office Building
St. Paul, Minnesota 55155
Telephone (612) 296-2673

A Statement of Need and Reasonableness that describes the need for and the reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is also available from Barbara Veronen upon request.

The cost to local public bodies of implementing the proposed rules will not exceed $100,000 for either of the first two years following passage of the rules.

If no hearing is required, the Department shall submit to the Attorney General the proposed rules and notice as published in the State Register, the rules as proposed for adoption, any written comments received by the Department and the Statement of Need and Reasonableness. On the same day that these materials are submitted to the Attorney General, the Department shall give notice to all persons who requested to be informed of this submittal. If you wish to be notified of the date of submission of the proposed rule to the Attorney General, contact Barbara Doherty.

Dated: March 25, 1985



LEONARD W. LEVINE
Commissioner of Human Services

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING RELOCATION OF NURSING HOME RESIDENTS, MINNESOTA RULES, PARTS 9546.0010 TO 9546.0060.

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. S. 14.14, subd. 1, that their names be placed on file with and maintained by the Department of Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 4:00, p .m., this 3rd day of April , 1985.

Ann M Berg

C. The licensing fee for outpatient treatment programs for chemically dependent persons licensed under parts 9530.5000 to 9530.6500 shall be the base fee in subpart 1, item A, plus 50 cents for each person served in the program in the previous year. The 50-cent fee shall increase to 60 cents beginning July 1, 1987, 70 cents beginning July 1, 1989, and 80 cents beginning July 1, 1991.

9545.2030 LICENSING FEE PAYMENT.

Subpart 1. Payment procedure. The licensing fee payment must accompany an operator's application for issuance or renewal of a license. The licensing fee shall be payable to the treasurer of the state of Minnesota and is nonrefundable.

Subp. 2. Proration of fees. The annual licensing fees established in part 9545.2020 shall be prorated for day care or residential facilities or agencies licensed for a period of time other than one year according to the number of months for which the license is issued or renewed.

Subp. 3. Noncompliance. The department shall not take any action on an operator's application until the licensing fee is paid.

9545.2040 WAIVER.

Subpart 1. Written request for waiver. An operator may request a waiver from the licensing fee formula or payment established in parts 9545.2020 to 9545.2030. The request for a waiver must be submitted to the department in writing. The request must include the following information:

A. the section or sections of parts 9545.2020 to 9545.2030 with which the operator cannot comply;

B. the amount of the licensing fee requested to be waived;

C. the reasons why compliance with the specified section or sections would cause financial hardship; and

D. documentation supporting the information in item C.

Subp. 2. Standard for granting waiver. A waiver may be granted only if the operator has shown that financial hardship would occur from strict compliance with parts 9545.2020 to 9545.2030.

Subp. 3. Notice of decision. The commissioner shall grant or deny a request for a waiver and mail a written decision to the operator within 30 days after the request for waiver is received. If the commissioner denies a request, the written decision must inform the operator of the reason or reasons for the denial.

Department of Human Services

Proposed Rules Relating to Relocation of Residents of Certified Nursing Homes and Certified Boarding Care Homes

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services proposes to adopt the above-entitled rules without a public hearing unless twenty-five or more persons submit written requests for a public hearing. The Department has determined that the proposed rules are noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21-14.28.

Interested persons shall have 30 days (or until May 8, 1985) to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

PLEASE NOTE THAT IF TWENTY-TIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A PUBLIC HEARING WILL BE HELD ACCORDING TO MINNESOTA STATUTES, SECTIONS 14.25-14.28.

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

Barbara Doherty
Adult Protection
Minnesota Department of Human Services
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone (612) 296-4019

Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

The statutory authority of the Department for the proposed rules is contained in Minnesota Statutes, section 144A.31, subdivision 4.

Minnesota Rules, parts 9546.0010 to 9546.0060 establish procedures that a local social service agency must follow when a long-term care facility within the county will be discharging residents as a result of the facility's closing, its loss of or change in certification, or termination of its medical assistance provider agreement. No additional personnel will be required as a result of the adoption of these rules. Local agencies are required to implement these rules only upon notification that a nursing home or certified boarding care home located in their county is about to relocate residents.

Parts 9546.0010 to 9546.0060 are proposed for adoption as permanent rules to replace 12 MCAR §§ 2.04601-2.04606 [Temporary]. The proposed permanent rules implement the recommendations of the Relocation Task Force and the expressed requirements of the Minnesota Legislature, and are substantially the same as the temporary rules. Notice of Intent to Solicit Outside Opinion was published in the *State Register* on December 17, 1984, and no comments have been received.

Parts 9546.0010 to 9546.0060 include a statement of applicability; a definition section; procedure to follow upon notification of relocation; relocation planning requirements; relocation assistance requirements; and reporting requirements.

Copies of the proposed rules are now available and at least one free copy may be obtained upon request from:

Barbara Veronen
Department of Human Services
Fourth Floor, Centennial Office Building
St. Paul, Minnesota 55155
Telephone (612) 296-2673

A Statement of Need and Reasonableness that describes the need for and the reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is also available from Barbara Veronen upon request.

The cost to local public bodies of implementing the proposed rules will not exceed $100,000 for either of the first two years following passage of the rules.

If no hearing is required, the Department shall submit to the Attorney General the proposed rules and notice as published in the *State Register*, the rules as proposed for adoption, any written comments received by the Department and the Statement of Need and Reasonableness. On the same day that these materials are submitted to the Attorney General, the Department shall give notice to all persons who requested to be informed of this submittal. If you wish to be notified of the date of submission of the proposed rule to the Attorney General, contact Barbara Doherty.

March 25, 1985

Leonard W. Levine
Commissioner of Human Services

Rules as Proposed (all new material)

9546.0010 APPLICABILITY.

Parts 9546.0010 to 9546.0060 govern the services that local agencies are required to provide for the benefit of residents of facilities when there are relocations. Parts 9546.0010 to 9546.0060 must be read in conjunction with [7 MCAR § 1.801 [Temporary]] for information regarding the relocation responsibilities of facilities.

9546.0020 DEFINITIONS.

Subpart 1. Scope. As used in parts 9546.0010 to 9546.0060, the following terms have the meanings given them.

Subp. 2. Certification level. "Certification level" means the level of care, whether skilled or intermediate, which a facility is certified to provide under Code of Federal Regulations, title 42, sections 442.100 to 442.112.

Subp. 3. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 4. County relocation committee. "County relocation committee" means those staff persons of the local agency designated by the county social service director to serve as the relocation committee in the responsible county.

Subp. 5. Facility. "Facility" means a certified boarding care home licensed under Minnesota Statutes, sections 144.50 to 144.56 and certified as an intermediate care facility as defined in United States Code, title 42, section 1396d, as amended through December 31, 1982, or a nursing home licensed under Minnesota Statutes, sections 144A.02 to 144A.10. Facilities for the mentally retarded as defined in United States Code, title 42, section 1396d(d), as amended through December 31, 1982, are excluded.

Subp. 6. Local agency. "Local agency" means the county or multi-county agency authorized under Minnesota Statutes, sections 393.01, subdivision 7 and 393.07, subdivision 2 as the agency responsible for providing social services.

Subp. 7. Medical assistance. "Medical assistance" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 8. Medicare. "Medicare" means the health insurance program for the aged and disabled under title XVIII of the Social Security Act.

Subp. 9. Relocation. "Relocation" means the discharging of residents from a facility as a result of its closing, its loss of or change in certification, or termination of its medical assistance provider agreement.

Subp. 10. Resident. "Resident" means a person admitted to a facility.

Subp. 11. Responsible county. "Responsible county" means the county where the facility is located from which the residents will be discharged.

Subp. 12. Swing bed. "Swing bed" means a licensed bed in an acute care hospital that has approval from the Health Care Financing Administration to furnish intermediate care or skilled nursing facility services under the Medicare program, as provided under Code of Federal Regulations, title 42, sections 440.40(a) and 440.150(f).

9546.0030 PROCEDURE UPON NOTIFICATION.

The local agency and its county relocation committee shall begin the process provided in parts 9546.0040 to 9546.0060 immediately upon receipt of written notification of the need for relocation from the facility, as provided in 7 MCAR § 1.801 [Temporary], item C, subitem b.

9546.0040 RELOCATION PLANNING.

Subpart 1. County relocation committee. The director of the local agency in a responsible county shall designate appropriate staff as the county relocation committee. The committee must be large enough to meet its responsibilities within the time limits in parts 9546.0030 to 9546.0060. Members of the county relocation committee must be knowledgeable about the needs of residents, and the local resources available to meet those needs including medical assistance and Medicare.

Subp. 2. Alternative resources. The county relocation committee shall develop a procedure to identify and monitor the current availability of alternative resources which may be used when a facility's residents must be relocated. These resources must include at least the following:

A. a list of unoccupied beds in other facilities within the county and in neighboring counties; this list must contain the following information about each facility:

(1) the name, address, and telephone number of the facility;

(2) the certification level of the available beds;

(3) the type of services available within the facility; and

(4) the number of beds that are available;

B. a list of alternative placements which includes swing beds in hospitals and foster care placement;

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C. a list of the community and in-home health and social services which may be used on a temporary basis;

D. a list of transportation resources;

E. a list of volunteer resources; and

F. the name, address, and telephone number of the appropriate regional ombudsman from the long-term care obmudsman program of the Minnesota Board on Aging.

9546.0050 RELOCATION ASSISTANCE.

Subpart 1. Resident information. The county relocation committee shall obtain from the facility the name of each resident to be relocated, the name, address, and telephone number of either a family member or the individual legally responsible for the resident's care, and the name and telephone number of the individual in the facility to be contacted for further information. This information must be obtained at least 60 days before the date by which relocation is to be completed.

Subp. 2. Coordination of relocation. The county relocation committee shall designate one of its members as a liaison to the individual in the facility responsible for coordinating the relocation. The county designee shall meet with appropriate staff from the discharging facility to coordinate the relocation assistance offered by the county relocation committee with the relocation responsibilities of the facility. This coordination must include participating, as requested, in any group meetings of residents and their families to explain the steps being taken in arranging for the relocation of residents.

Subp. 3. Offer of assistance. The county relocation committee shall provide a written offer of relocation assistance to each resident to be relocated and to his or her family member, and if applicable, to the person legally responsible for his or her care. The written offer of assistance must contain, at least, an explanation of the relocation services offered by the county relocation committee, and the name, address, and telephone number of the individual to contact to request further information or assistance.

Subp. 4. Relocation services. The county relocation committee shall arrange for or provide, as necessary, the following minimum services for residents to be relocated to ensure their placement or other alternative care:

A. accurate and up-to-date information about the alternative arrangements for the care of the resident, including all the resources identified in part 9546.0040, subpart 2;

B. help in choosing among the available alternatives;

C. counseling to enable the resident to adjust to the relocation;

D. help in preparing the resident for the actual move which includes:

(1) providing written information about the new facility to the resident;

(2) providing an opportunity for the resident to visit the new facility to learn the physical layout, meet other residents and staff, and learn about the program and activities; and

(3) encouraging a visit by staff and residents from the new facility to the resident before the actual relocation, if a site visit by the resident is not possible;

E. help in arranging for necessary transportation; and

F. assurance that someone accompanies the resident during the actual move.

Subp. 5. Follow-up visit. A member of the county relocation committee shall visit the resident within 30 days after the relocation. The committee member shall interview the resident or observe him or her onsite, or both, and review and discuss pertinent medical or social records with appropriate staff to:

A. assess the adjustment of the resident to the new living environment; and

B. recommend services or methods to meet any special needs of the resident arising out of relocation.

9546.0060 REPORTING.

Subpart 1. Initial report. The local agency shall submit a written report to the commissioner within one week after the date of receipt of the written notice of the need to relocate residents. The initial report must contain the following information:

A. the names and phone numbers of the county relocation committee members;

B. a description of the procedure developed to identify and monitor the availability of resources which may be used to meet the needs of the residents to be relocated; and

C. a timetable for the completion of the relocation process.

Subp. 2. Status reports. During a relocation process the county relocation committee shall provide weekly status reports to the commissioner. The status reports must include the number of residents relocated during the week, the date each resident is relocated, and the new placement of each resident. The reports must also identify any problems met during the relocation process.

Subp. 3. Summary report. The county relocation committee shall provide a summary report to the commissioner within 60 days after the completion of a facility's relocation. The summary report must include:

A. the number of residents relocated;

B. the medical assistance identification number of each medical assistance recipient relocated;

C. the date each resident was relocated;

D. the new placement of each resident;

E. the status of each resident at the time of the follow-up visit; and

F. the identification of problems met during the relocation process.

Department of Human Services

Proposed Temporary Rules Relating to Nursing Home Payment Rate Determination

Notice of Intent to Adopt Temporary Rules

The State Department of Human Services proposes to adopt the above-entitled temporary rules to implement Laws of Minnesota 1984, chapter 641, section 22, subdivision 6 and Minnesota Statutes, section 256B.431, subdivision 6.

Persons interested in these rules have until 4:30 p.m. on April 29, 1985, to submit written comments. The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Rosemary Chapin
Department of Human Services
Sixth Floor, Space Center
444 Lafayette Road
St. Paul, Minnesota 55101

After consideration of all comments received, the Department of Human Services shall submit the temporary rules as published, with any modifications, this notice, and all written comments received to the Attorney General.

The Attorney General shall review the proposed temporary rule, with any modifications, as to its legality, review its form to the extent the form relates to legality and shall approve or disapprove the rule and any modifications within five working days.

The approved rule shall also be certified by the Revisor of Statutes.

The Department of Human Services shall not implement the temporary rules until a report on the proposed rules has been presented to the Senate Health and Human Services Committee and the House of Representatives Health and Welfare Committee. The rules are effective five days after publication in the *State Register*.

The temporary rules adopted under the provision of Laws of Minnesota 1984, chapter 641, section 22, subdivision 6 and Minnesota Statutes, section 256B.431, subdivision 6, shall have the force and effect of law and remain in effect until June 30, 1986, unless otherwise superseded by rule.

The Department of Human Services' authority for adoption of these rules is found in Laws of Minnesota 1984, chapter 641 and Minnesota Statutes, section 256B.41, 256B.21, 256B.431, subdivisions 1, 2 c, and 6.

The purpose of the proposed rules is to implement a case mix reimbursement system which bases nursing home operating costs payments on the condition and needs of residents in each home. This system entails ongoing assessment of resident needs to determine to which of eleven payment classifications each resident belongs. For purposes of establishing these prospective payment rates, operating costs are divided into two parts; "care related" and "other operating" costs. Separate limitations and incentives are established for each of these two parts.

This rule will impact the operating costs payment rate for nursing homes licensed under Minnesota Statutes, chapter 144A or boarding care facilities licensed under Minnesota Statutes, section 144.50 to 144.58 participating in the Medical Assistance Program.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rules of the State Department of Human Services Relating to the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes

FINDINGS OF FACT AND CONCLUSIONS

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the state register on April 8, 1985 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statues, sections 14.14, subdivision 1, paragraph (a) and 14.22 on April 3, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30-day comment period, reviewing and considering the record, I find the following:

The rules identified as Rules Relating to the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes, Minnesota Rules, parts 9546.0010 to 9546.0060, as proposed for adoption, are identical to the rules as they were proposed in the April 8, 1985 State Register.

I hereby conclude that:

The Commissioner has statutory authority to promulgate these rules.

The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

The above-captioned rules are needed and reasonable.

STATE OF MINNESOTA

Leonard W. Levine
Commissioner of Human Services

Dated: 5/9/85

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA DEPARTMENT OF

HUMAN SERVICES

IN THE MATTER OF THE PROPOSED RULES

OF THE MINNESOTA DEPARTMENT OF HUMAN

SERVICES GOVERNING THE RELOCATION OF

NURSING HOME RESIDENTS (MINNESOTA

RULES 9546.0010 - 9545.0060 [PROPOSED])

STATEMENT OF NEED
AND REASONABLENESS

BACKGROUND

These proposed rules seek to address the need to protect residents of long-term care facilities from unnecessary trauma and disruption during mass transfer to another facility.

The involuntary transfer of elderly or frail persons has been shown to entail considerable risk. Social relationships are disrupted, morale declines, persons become disoriented, and morbidity and mortality increase. Concerns raised by advocates, county case workers, medical personnel and families of nursing home residents led in 1979 to the development of relocation procedures designed to protect nursing home residents from unnecessary "transfer trauma." The Minnesota Board on Aging, working closely with the Medical Assistance Division of the Department of Public Welfare issued these "Proposed Guidelines for Relocation of Medical Assistance Residents in Long-Term Care Facilities" on September 10, 1979. (See DPW Informational Bulletin #79-77.)

On July 15, 1980, amid new concerns arising out of implementation of the 1976 law equalizing private and medicaid nursing home rates, a 19-member task force was appointed, representing providers, consumers, and county and health professionals. Their mission was to develop and coordinate an orderly program for relocation of residents of long-term care facilities. Twelve meetings were held from July 23, 1980 to November 19, 1980, and a final Relocation Task Force Report was presented on October 9, 1981.

Minnesota Statutes, 1983 Supplement, section 144A.31, subdivision 4, as amended by Laws of Minnesota 1984, chapter 641, section 12 (codified at Minnesota Statutes, section 144A.31, subdivision 4) authorized the Commissioner of Human Services to promulgate rules which will implement a resident relocation plan that instructs the county in which the nursing home is located of procedures to ensure that the needs of residents in the nursing home are met during a relocation.

Minnesota Rules, parts 9546.0010 - 9546.0060, proposed for adoption as permanent rules, implement the recommendations of the Relocation Task Force and the expressed requirements of the Minnesota Legislature.

Part 9546.0010 Applicability.

Minnesota Statutes, section 144A.31, subdivision 4, mandates the Commissioner of Human Services to implement a resident relocation plan that instructs the local social service agency for the county in which a long-term care facility is located of procedures that ensure that the needs of residents are met during a relocation. These rules, parts 9546.0010 to 9546.0060, are necessary and reasonable to implement the resident relocation plan and instruct the local agency of their responsibilities for and under this plan. It is necessary to refer to the Minnesota Department of Health rule, 7 MCAR § 1.801 [Temporary], because the responsibilities of long-term care facilities which it describes should be read along with this rule in order to understand the entire relocation process.

Part 9546.0020 Definitions.

This rule defines words and phrases that have a meaning specific to parts 9546.0010 to 9546.0060, that may have several possible interpretations, or that need exact definitions in order to be consistent with statutes. Terms used in a manner consistent with current common usage in the long-term care field are not defined unless a standard for use of the term is required.

Subpart 1. Scope. This provision is necessary and reasonable to clarify that these definitions apply to the entire sequence of parts 9546.0010 to 9546.0060.

Subpart 2. Certification level. It is necessary to define this term because it is used throughout these rule parts, and its meaning is open to various interpretations. This definition is reasonable because it identifies the federal regulations which govern the levels of care which a facility can be certified to provide.

Subpart 3. Commissioner. It is necessary to define this term because it is used as an abbreviation, and it is open to several interpretations. It is reasonable to use this abbreviation because it eliminates unnecessary words throughout the rule parts.

Subpart 4. County relocation committee. It is necessary to define this term because it is used throughout parts 9546.0010 to 9546.0060 and it is open to several possible interpretations. This definition is reasonable because it establishes who the committee members may be, and who is responsible for designating committee members.

Subpart 5. Facility. The term "facility" is defined for the purpose of parts 9546.0010 to 9546.0060 so that it is not necessary to repeat the more lengthy term, long-term care facility. It is reasonable to define this term with reference to state licensure laws and federal certification laws because these are the specific facilities regulated by Minnesota Statutes, Chapter 144A. It is necessary to clarify that facilities for the mentally retarded are excluded from this definition because they are certified under the same federal statute as facilities for the elderly. It is reasonable to exclude facilities for the mentally retarded because their licensure

requirements are defined under a different state statute.

Subp. 6. Local agency. This definition is necessary because the term is open to several possible interpretations. It is reasonable to clarify that for the purpose of these rules, this is the agency responsible directly to the county board of commissioners or the human service board for the provision of social services.

Subp. 7. Medical assistance. It is necessary to define this term because it has a specific meaning under these rules. This definition is reasonable because it identifies the federal law and state statutes which govern this program.

Subp. 8. Medicare. It is necessary to define this term because it has a specific meaning under these rules. This definition is reasonable because it identifies the federal law which established and governs this program.

Subp. 9. Relocation. It is necessary to define this term because it is open to several possible interpretations, and it has a meaning specific to this rule. This definition is reasonable because it is consistent with the situations described in Minnesota Statutes, section 144A.31, subdivision 4, which trigger the duties under these rules.

Subp. 10. Resident. It is necessary to define this term because it is open to several possible interpretations. This defintion is reasonable because it limits the meaning to persons residing in facilities affected by this rule, and it is consistent with current common usage in the field of long-term care.

Subp. 11. Responsible county. Minnesota statutes, section 144A.31, subdivision 4, requires the county where a facility which will be discharging residents is located to provide relocation assistance. This definition is necessary in order to provide consistency with the statute which authorizes these rules. This definition is reasonable because the county in which the facility is located is geographically closest to the residents being relocated, and can thus be more immediately responsive to residents needs and concerns.

Subp. 12. Swing bed. It is necessary to define this term because it is open to various interpretations. This definition is reasonable because it identifies the federal regulations which permit acute care hospitals to provide intermediate care and skilled nursing facility services under the Medicare program.

Part 9546.0030 Procedure Upon Notification.

This part is necessary to clarify when the procedures for relocation assistance must be initiated by the local social service agency and the county relocation committee. It is reasonable for the procedures to be initiated only upon receipt of notice of their need because it avoids requiring burdensome paperwork of the county prior to the time when the assistance being reported upon is actually required. Minnesota Department of Health rules, 7 MCAR § 1.801 [Temporary] subpart C, item 3, subitem b, requires the

facility to notify the local social service agency at least 60 days prior to the date when the relocation of residents is to be completed. By requiring the county relocation committee to initiate their procedures upon receiving notice from the facility, they will have 60 days to provide relocation assistance.

Part 9546.0040. Relocation Planning.

Over 200 studies since 1945 have suggested that involuntary relocation of elderly or frail persons, particularly from one institution to another, entails considerable risk including disruption of social relations, decline in morale, disorientation, and increase in mortaility and morbidity. It has been shown, however, that this phenomenon, termed "transfer trauma", can be substantially reduced by providing adequate notice of the move coupled with a program of counseling, visitation to the new home, and coordination of the relocation process. (See page 3 of the Task Force on Relocation Report and Exhibit 6, page 5, Boureston and Tars, "Alterations in Life Patterns Following Nursing Home Relocation," The Gerontologist, pp. 506-510 (December, 1974).) These rules governing relocation planning are necessary to ensure the protection of vulnerable adults who are being involuntarily relocated from one facility to another and who are therefor subject to transfer trauma. These rules are reasonable because they are consistent with established Department of Human Service policy regarding the transfer of Medical Assistance residents (see Informational Bulletin #79-77, Guidelines for Relocation of MA Residents in Long-Term Care Facilities) and consistent with the federal requirements that a State Medicaid plan be designed so as to provide for the best interests of recipients (see SSA Section 1902 (a) (19)).

Subpart 1. Relocation committee. In each county where a facility from which residents will be discharged is located, it is necessary to designate who is responsible for providing relocation assistance. This provision establishes who is responsible for designating the people who are to serve on the county relocation committee and who is eligible to be appointed to serve on the county relocation committee. It is reasonable that the director of the local social service agency appoint staff from that agency because it is the local agency which is authorized by the county board of commissioners or the human service board to provide social services to residents of that county, and the local agency is responsible for protection of vulnerable adults under Minnesota Statutes, section 626.557. It is necessary for the members of the committee to be knowledgeable about the needs of long-term care residents and the local resources available to meet these needs because the time available for the provision of relocation services is very limited, and there is insufficient time for committee members to learn about these needs and local resources after these procedures are initiated. The requirement of knowledge is reasonable, because local social service agencies employ persons with this knowledge.

Subpart 2. Alternative resources. These provisions are necessary because the time available for the provision of relocation services is very limited. If the county relocation committee is to carry out its functions within these time constraints, it must have a procedure for identifying and

monitoring the availability of alternative resources once it is called upon to initiate the procedures provided in parts 9546.0040 and 9546.0060. It is reasonable to require the development of these procedures because they will prevent unnecessary delay in initiating relocation services. (See Pennsylvania State Relocation Plan, Exhibit 5, page 5, of Informational Bulletin #79-77, re: the necessity for maintaining a list of available beds.)

A. It is necessary for unoccupied beds in other facilities to be included, because Minnesota Statutes, section 144A.31, subdivision 4, requires the county to ensure placement in other facilities where beds are available and it is otherwise appropriate. It is reasonable to include facilities in neighboring counties because where there are insufficient unoccupied beds within the county and where a resident's family or friends live very near the border of another county the most appropriate placement might be in a facility in the neighboring county. It is reasonable to include subitems (1) through (4) because all these items can be obtained from a single contact with each facility.

(1) It is necessary for the list to contain the name, address, and phone number for each facility so that the committee and the residents know how to contact the facility should they need to obtain information from them.

(2) It is necessary for the list to contain the certification level of the available beds because residents being relocated would require placement in a facility certified to provide the same level of care as they are currently receiving.

(3) It is necessary for the list to contain the type of services available within the facility so the committee can match a relocating resident's need for a specific service with the services' availability in another facility.

(4) It is necessary for the list to contain the number of beds available in order for the committee to determine how many of the residents could be relocated to a specific facility.

B. These provisions are necessary and reasonable because Minnesota Statutes, section 144A.31, subdivision 4, requires the county to ensure placements in swing beds in hospitals and in foster care where such placements are available and appropriate.

C. These provisions are necessary and reasonable because Minnesota Statutes, section 144A.31, subdivision 4, requires the county to ensure utilization of home health care and other alternatives on a temporary basis, as available and appropriate.

D. It is necessary and reasonable to include a list of transportation services because these services are required in order to implement the provisions in part 9546.0050, subpart 4, items D. and E.

E. It is necessary and reasonable to include a list of possible volunteer resources because such resources might be valuable in supple-

menting staff resources during a relocation, and the Department of Human Services had made a strong commitment to increase the use and effectiveness of volunteers wherever possible. (See Request Bulletin #84-37 for a statement of this policy.)

F. Minnesota Statutes, section 144.651, subdivision 29, requires that residents be provided with the address and telephone number of the area nursing home ombudsman when they are notified of any proposed transfer.

Part 9546.0050. Relocation assistance.

Subpart 1. Resident information. These provisions are necessary in order for the county relocation committee to carry out the procedures established by these rules. It is necessary for the county relocation committee to have the names of each resident and the name and address of either a family member or the person legally responsible for their care because the county relocation committee must be able to contact the residents and their families in order to involve them in the relocation process. Minnesota Statutes, section 144A.31, subdivision 4, requires resident and family or guardian involvement in the planning for relocation. It is reasonable for the county relocation committee to obtain this information from the facility because the facility has this information in their records and 7 MCAR § 1.801 [Temporary] subpart C, item 3, subitem b, requires the facility to release this information to the local social service agency in order to facilitate the relocation of residents. Frequent contacts between the county relocation committee and the facility may be necessary in order for the county relocation committee to carry out the procedures established to ensure resident and family involvement in the resident's relocation. It is necessary, therefore, for the county relocation committee to obtain the name and phone number for the individual within the facility who can be contacted for further information concerning residents and their families. It is reasonable to require the county relocation committee to obtain this information at least 60 days prior to the date set for the completion of the relocation to allow for the orderly transfer of residents. (See Pennsylvannia State Relocation Plan, Exhibit 5, page 6, of Informational Bulletin #79-77 re: information to obtain upon initial contact with a facility.)

Subpart 2. Coordination of relocation. 7 MCAR § 1.801 [Temporary], requires the facility from which residents are being relocated to assume certain responsibilities. This provision, requiring the county relocation committee to designate one of its members as a liaison to the facility, is necessary to ensure that the assistance being offered by the county relocation committee is coordinated with actions taken by the facility to make communications easier. It is reasonable to designate one of the county relocation committee members as a liaison so that the individual can meet with the facility staff to coordinate their respective efforts. It is reasonable for the county relocation committee to designate a liaison and for the liaison to participate in group meetings of residents, their families and legal guardians since the liaison is capable of explaining the assistance the county relocation committee is offering to residents who are being relocated.

Subpart 3. Offer of assistance. These provisions are necessary in order to inform the resident and the resident's family or the person legally responsible for their care that relocation assistance is available. It is reasonable that this offer of assistance be made in writing to verify that such offer was made and to provide the recipients of the offer with something to refer to should they wish to request further information, explanation or assistance. It is necessary for the offer to be sent to both the resident and the family or person legally responsible because Minnesota Statutes, section 144A.31, subdivision 4, requires residents and their families or guardians to be involved in planning the relocation. It is reasonable to include family or persons legally responsible because the resident may require the assistance of their family or guardian to understand and accept the offer of assistance.

A list of relocation assistance services might appear complicated and confusing to individuals who do not work in the field of long-term care. It is necessary, therefore, that an explanation be a part of the offer of assistance so that persons who receive it will be able to make more informed decisions regarding whether to request any of the offered assistance. It is reasonable to included this explanation to ensure that residents, their families, and persons legally responsible for the resident's care have a meaningful opportunity to participate in the relocation process.

It is necessary for the offer to include the name, address, and phone number of the individual to be contacted for further information and assistance so that the person with questions may know who to contact. It is reasonable to include this information in the offer of assistance so that the person reading the offer and having questions will know immediately who to contact.

Subpart 4. Relocation services. Studies conducted by the University of Michigan's Institute of Gerontology have shown that the most effective ways to reduce transfer trauma are to provide residents with advance notice to the relocation, counseling prior to the relocation, an opportunity to visit the new home where possible, and coordination of the relocation process. (See page 3 of the Task Force on Relocation Report and Exhibit 3, page 1, Relocation Report 3; Preparation for Relocation.) Minnesota Statutes, Section 144A.31, subdivision 4, requires the Commissioner of Human Services to implement a resident relocation plan that instructs the responsible county of procedures to ensure that the needs of residents are met. The provisions of this subpart are necessary to carry out the mandate of the statute and to minimize the amount of transfer trauma experienced by the residents being relocated. It is reasonable to define the specific relocation services must be made available so that the county, the local agency and its relocation committee will know what steps they are required to take and what services they are required to make available.

A. Minnesota Statutes, section 144.651 provides that resident's rights to independent personal decisions and the knowledge of available choices must not be infringed. It is necessary and reasonable to provide accurate information about the available alternatives so that the residents to be relocated will know what options are available in selecting a new facility. The resources identified in Part 9546.0040, subpart 2, include

the alternatives listed in Minnesota Statutes, section 144A.31, subdivision 4. (See also Exhibit 4, page 1, section 9 of Model Recommendations: Intermediate Sanctions for Enforcement of Quality of Care in Nursing Homes, ABA Commission on Legal Problems of the Elderly, and Exhibit 9, page 4, Procedure for Involuntary Transfer of Patients, New York State Plan, found in Informational Bulletin #79-77.)

B. It is necessary and reasonable to provide the resident with assistance in choosing among the alternatives, to ensure that the resident is making a choice based on accurate information and with a clear understanding of both the alternative selected and those rejected.

C. It is necessary to provide the resident with counseling to ensure that the resident will adjust to the relocation. (See Exhibit 5, page 7, and Exhibit 9, S 600, the Pennsylvania and New York State Relocation Plans for other requirements for resident counseling, as well as Exhibit 7, "District of Columbia and Attorneys for Residents work out Relocation for Closing of Nursing Home," Older Americans Advocacy Assistance Program News, found in Information Bulletin #79-77.)

It is reasonable that the county relocation committee, which has developed the procedure for identifying and monitoring the current availability of alternative resources pursuant to Part 9546.0040 and whose members are appointed because of their knowledge of the needs of long-term care residents and the resources available to meet those needs, should provide or arrange for the services described in items A., B., and C. The county relocation committee has direct access to the information in item A. and is knowledgeable about residents' needs which require consideration in the provision of items B. and C.

D. These provisions are necessary to ensure that the resident has information about his or her new placement and that the resident's risk of transfer trauma is minimized by providing an opportunity to become familiar with the new surrounding and the people who will be providing care in these new surroundings prior to the actual move. Studies have shown that the most successful relocations are those in which the residents to be relocated are provied with a number of opportunities to learn, through a number of different senses, about their new placement. (See letter from Dr. Bourestom, attached to the Task Force on Relocation Final Report.)

(1) Minnesota Statutes, section 144.651 requires that residents be notified, in writing, of a proposed discharge or transfer. It is reasonable to require that residents be provided with written information about the new facility so that they may read or have the information read to them and be able to refer to it when they have questions. This opportunity provides for concrete and redundant cueing, a requirement if the frail elderly are to adequately assimilate information. (See letter from Dr. Bourestom, attached to the Task Force on Relocation Final Report.)

(2) and (3) Studies have shown that it is important to provide residents an opportunity to become familiar with a new facility prior to relocation. Where possible, this is best accomplished by having the resi-

dent visit the new facility. Where it is not possible for the resident to make this visit, a visit by residents and staff from the new facility will also help lessen the trauma to a relocating resident. (See Relocation Report 3, Preparation for Relocation, Institute of Gerontology, Ann Arbor, Michigan, found in Exhibit 3, page 1 of Informational Bulletin #79-77.) It is reasonable for the county relocation committee to provide or arrange for relocating residents to have these opportunities because the local agency is responsible for ensuring that the residents needs are met under Minnesota Statutes, section 144A.31, subdivision 4, and under the requirements to provide protection to vulnerable adults pursuant to Minnesota Statutes, section 626.557. (See also Pennsylvania and New York State Relocation plans Exhibit 5, page 7, and Exhibit 9, page 4 of Informational Bulletin #79-77 re: site visits to receiving facilities.)

E. It is necessary and reasonable that residents have assistance in arranging for transportation both for site visits and for the actual move. Since the county relocation committee is involved with all residents being relocated, the county relocation committee is in the best position to coordinate the use of transportation services which they have identified pursuant to Part 9546.0040, subpart 2 of this rule. (See Pennsylvania State Relocation Plan, Exhibit 5, pages 7 and 8 of Informational Bulletin #79-77 re: necessity for arranging transportation for residents.)

F. It is necessary that someone accompany the resident during the actual move to ensure that personal belongings are not lost in the transition and that the resident does not feel a loss of continuity. It is reasonable that the relocation committee assure that someone accompanies the resident because it is responsible for the coordination of transportation. (See Pennsylvania State Relocation Plan, Exhibit 5, page 8, of Informational Bulletin #79-77 re: necessity for assisting residents on the day of transfer and also Section 9 of the Model Recommendations: Intermediate Sanctions for Enforcement of Quality of Care in Nursing Homes, ABA Commission on Legal Problems of the Elderly, Exhibit 4, page 2, re: resident's need for assistance during transfer.)

Subp. 5. Follow-up visit. Counties are responsible for providing vulnerable adults with protective services pursuant to Minnesota Statutes, section 626.557. Local social service agencies, authorized to provide social services by county boards of commissioners or human service boards, are responsible for assuring that the residents being relocated, who are all categorically vulnerable pursuant to Minnesota Statutes, section 626.557, subdivision 2(b)(1), are provided with client protection services in their new environment. It follows from these requirements that it is necessary for relocation committee members who are all on the staff of the local social service agency, to make a follow-up visit to each resident who is relocated. It is reasonable that the visit should include interviews, observations, discussions, and a review of resident records because through these various means the relocation committee can best assess the appropriateness and success of the placement.

A. and B. It is necessary and reasonable that the county relocation committee, since they have been working with the residents for up to 60 days prior to the relocation and they are knowledgeable about the needs of long-

term care residents and the resources available to meet those needs, should assess the adjustment of each resident and recommend services or methods of meeting the needs of a resident where special needs have arisen out of the relocation.

Part 9546.0060. Reporting.

Subpart 1. Initial report. Minnesota Statutes, section 144A.31, subdivision 4, places responsibility for implementation of the relocation plan on the Department of Human Services. These provisions are necessary because the Department of Human Services has responsibility for monitoring county compliance with these rules. The initial report by the county relocation committee is necessary for the department to carry out this responsibility, and to ensure that the county does not delay initiation of services under these rules. The requirement that the initial report be made within one week is reasonable, since the local agency should be ready to designate a county relocation committee and develop procedures for identifying and monitoring current availability of alternative resources upon receiving notice to initiate procedures under Minnesota Rules, part 9546.0030.

A. It is necessary and reasonable for the initial report to include the names and phone numbers of the committee members so that the department staff will know who to contact and how to reach committee members.

B. It is necessary and reasonable for the initial report to contain the procedure developed to identify and monitor the availability of resources in order to document that the county is in compliance with Part 9546.0040, subpart 2, of these rules.

C. It is necessary and reasonable for the initial report to contain a timetable for the completion of the relocation process so that the department may evaluate the committee's plan and monitor its progress according to the plan.

Subpart 2. Status reports. Weekly status reports are necessary for the department to ensure that the county relocation committee is adhering to the timetable they provided in their initial report, and that they are in compliance with these rules. It is reasonable to require weekly reports because the very limited time available to complete the relocation process makes it necessary to deal as quickly as possible with any problems which may arise, in order to prevent delays.

It is necessary for the reports to indicate the number of residents relocated during the week, so that the department can ensure that too high a percentage of residents are not being left to relocate the final week, thus defeating the purpose of having a planned, deliberate relocation process. It is reasonable for the department to monitor the number of residents relocating because of the potential problems which might arise, such as inadequate transportation resources available, should too high a number of residents be left to be moved until the final week of a facility's operation.

It is necessary and reasonable for the reports to include the date of each residents relocation because it provides an additional means of

identifying individual resident's transfers for purposes of documenting the implementation of the county relocation plan.

It is necessary and reasonable for the report to include the new placement for each resident relocated so the department can ensure that the new placements comply with the requirements of Minnesota Statutes, section 144A.31, subdivision 4, which requires the county to ensure placement in swing beds in hospitals, placement in unoccupied beds in other nursing homes, utilization of home health care on a temporary basis, foster care placement, or other appropriate alternative care.

It is necessary and reasonable for the reports to identify any specific problems which arise concerning the relocation process so that the department may assist in solving those problems as quickly as possible, thereby avoiding unnecessary delays in the relocation process.

Subpart 3. Summary report. These provisions are necessary so that the department can determine whether the needs of residents have been met, whether the county was in compliance with the requirements of these rules, and whether the resident relocation plan should be revised to correct any problems which arose during its implementation. It is reasonable to require the relocation committee to submit a summary report because it facilitates the department's ability to evaluate the relocation procedure.

A., B., C., and D. It is necessary and reasonable for the summary report to include the information in items A. through D. in order to document for the Department of Human Services that the county can verify where each resident has been relocated to, and to document county compliance with the statute and these rules.

E. It is necessary for the summary report to include the status of each resident at the time of the follow-up visit to verify that the county has provided adequate client protection services. This information is reasonable because it will also assist the department in evaluating the effectiveness of the relocation plan as one element of a comprehensive approach to adult protection services in the State of Minnesota. (See Pennsylvania State Relocation Plan, Exhibit 5, page 8, of Information Bulleting #79-77, re: follow-up counseling to evaluate the placement and address any problems of adjustment, and also Exhibit 6, pages 5 and 6, Bourestom and Tars, "Alterations in Life Patterns Following Nursing Home Relocation," The Gerontologist, pp. 506-510 (December, 1974).)

F. It is necessary and reasonable for the summary report to indicate problems encountered during the relocation process so that the department can evaluate the effectiveness of the relocation plan and determine the most effective ways to deal with problems that were encountered.

Conclusion

The foregoing statements demonstrate the need for and reasonableness of proposed parts 9546.0010 - 9546.0060. To a great extent, the need for the rules is prescribed expressly by state statute and the responsibility of the Minnesota Department of Human Services to provide protection services to vulnerable adults.

EE-R01

Date: 3/21/85

LEONARD W. LEVINE
Commissioner of Human Services

BIBLIOGRAPHY

Department of Human Services Informational Bulletin #79-77

Task Force on Relocation Report

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Witness

No witnesses other than Department of Human Services and Minnesota Board on Aging personnel will be presenting testimony at the public hearing.

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING THE RELOCATION OF NURSING HOME RESIDENTS (MINNESOTA RULES 9546.0010 - 9545.0060 [PROPOSED])

EXHIBITS

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In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Relating to the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes

STATEMENT OF COMPLIANCE WITH RULE MAKING PROCEDURES

I, Lawrence M. Schultz, 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 Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Lawrence M. Schultz

Lawrence M. Schultz
Special Assistant - Attorney General

Dated: May 14, 1985