

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1162

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-24-85
DATE FOR REVIEW 6-2-85
DATE DUE 6-7-85

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

Approved 6/7/85 (CDS) Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 6-10-85 Revisor approved 5/28/85
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.22.85 Date

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement

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

✓ Mailing list Certificate

✓ Publication in State Register
4.1.85 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 contains small biz statement

N/A Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

RECEIVED
MAY 24 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

TO: MARTHA J. CASSERLY
Special Assistant
Attorney General

DATE: 5/23/85

FROM: LESLIE M. ALTMAN LMA
Special Assistant
Attorney General

PHONE: 297-2972

SUBJECT: **AMENDMENTS TO RULES GOVERNING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANTS**

The Department of Labor and Industry has adopted the above-captioned amendments pursuant to its authority under Minn. Stat. § 176.83, subd. 2. Having received no requests for a public hearing, the Department proceeded under the noncontroversial rulemaking provisions, Minn. Stat. §§ 14.21-14-28 (1984). The Department is now submitting the amendments to the Attorney General for approval pursuant to Minn. Stat. § 14.26.

As the following documents demonstrate, the Department has fully complied with all requirements imposed by law or rule:

1. An Order for Notice of Intent to Adopt Amendments Without a Public Hearing and for Publication was issued by the commissioner on March 14, 1985. It directed the publication of the Notice in the State Register and the mailing of the Notice to all persons on the list maintained by the agency.

2. A Certificate verifying the accuracy and completeness of the agency's mailing list of persons and groups requesting notice of proposed adoption of amendments was prepared on March 28, 1985.

3. An Affidavit of Mailing the Notice of Intent to Adopt Amendments without a Public Hearing on March 28, 1985 to persons and groups on the certified list described in #2 was executed.

4. The Notice of Intent to Adopt Amendments Without a Public Hearing was published in the State Register at 9 S.R. 2172 on April 1, 1985 together with the amendments as proposed. The Notice contained all of the elements required by Minn. Rules pt. 2000.0400, subp. 2.

5. A Statement of Need and Reasonableness describing the reasons, arguments, and evidence supporting a finding of need for and reasonableness of the proposed amendment was drafted and made available to the public by April 1, 1985.

6. No requests for hearing were received by the Department during the 30 days ending on April 30, 1985. The only comment letter received which is enclosed, supported the proposed amendment.

7. Findings of Fact were issued by the Commissioner on May 22, 1985. These findings document the Department's compliance with all requirements of law and rule and the need and reasonableness of the proposed amendment.

8. An Order Adopting the Amendments was issued by the Commissioner on May 22, 1985. It states that proper notice of the proposed rulemaking was effected, fewer than 25 requests for public hearing were received, and that the amendments are needed and reasonable.

9. A certificate verifying the accuracy of the mailing list of persons requesting to be notified of the submission of these amendments to the Attorney General was completed on May 23, 1985.

10. An Affidavit of Mailing the Notice of Submission to the Attorney General to persons and groups on the certified list described in #9 was completed on May 23, 1985.

11. A Notice of Submission to the Attorney General was prepared on May 23, 1985. A free copy of the final amendments as adopted was attached to this notice.

12. A Certificate of Compliance with Rulemaking Procedures was signed on May 23, 1985 by Leslie M. Altman, Special Assistant Attorney General.

In all respects, then, the Department of Labor and Industry has complied with the requirements for noncontroversial rulemaking contained in Minn. Stat. §§ 14.21-14.28 (1984) and in Minn. Rules pt. 2000.0400 (1984).

LMA:sms

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: STEVE KEEFE, Commissioner
Department of Labor & Industry

DATE: 6-10-85

ATTN: LESLIE M. ALTMAN
Special Assistant Attorney General

FROM: LARRY D. STARNS LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption by the Minnesota Deprtment of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Eligibility Criteria for Rehabilitation Consultants.

The above-referenced rule has been approved as to its legality by the Attorney General on June 7, 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.

LDS:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG copy.

Department of Labor and Industry

Workers' Compensation Division

Adopted Rules Relating to Rehabilitation Consultant Qualifying

Rule as Adopted

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **General criteria.** All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

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

A qualified rehabilitation consultant operating on the effective date of this amendment who is registered is deemed to meet the standards of this part. Registered qualified rehabilitation consultant interns operating on February 7, 1984, must meet the minimum requirements in effect on February 6, 1984, in order to make application for qualified rehabilitation consultant registration.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 10 1985
Joan Anderson Growe
Secretary of State

9:35 AM

APPROVED AS TO LEGALITY

June 7, 19 85

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Rule as Proposed

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **General criteria.** All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

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

A qualified rehabilitation consultant operating on the effective date of this amendment who is registered is deemed to meet the standards of this part. Registered qualified rehabilitation consultant interns operating on ~~the effective date of this amendment who are registered~~ February 7, 1984, must meet the minimum requirements ~~of this rule~~ in effect on February 6, 1984, in order to make application for qualified rehabilitation consultant registration.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD744

Agency: Department of Labor and Industry

Division:

Agency Contact: Joan Volz

Minnesota Rules: Part 5220.1440

Title: Proposed Rules Relating to Rehabilitation Consultant Qualifying

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

John C. Fuller
Assistant Deputy Revisor
Phone: 296-0955

Date: March 7, 1985

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

ORDER ADOPTING AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

Notice of intent to adopt the above-captioned amendments without a public hearing was published in the State Register on April 1, 1985 and was sent by United States mail to all persons and groups on the list maintained by the Department of Labor and Industry, Workers' Compensation Division, pursuant to Minn. Stat. § 14.22 (1984) on March 28, 1985. After affording interested persons and groups an opportunity to submit comments and requests for a hearing for 30 days after notice, receiving fewer than 25 written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned amendments,

NOW, THEREFORE, IT IS ORDERED that the Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants are adopted pursuant to the authority vested in me by Minn. Stat. §§ 176.102, Subd. 10 and 176.83, Subd. 2 (1984).

STATE OF MINNESOTA

Steve Keefe

Steve Keefe, Commissioner
Department of Labor & Industry

Dated: May 22, 1985.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

ORDER FOR PUBLICATION AND FOR NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED THIS 14th day of March, 1985, that a Notice of Intent to Amend Rules Without a Public Hearing in the above-captioned matter be given to all persons and groups who have requested that their names be placed on the list maintained by the Minnesota Department of Labor and Industry for that purpose pursuant to Minn. Stat. § 14.22 (1984) and be published in the State Register.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe, Commissioner
Department of Labor and Industry

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division, proposes to adopt the above-captioned amendments to Minn. Rules pt. 5220.1400, subp. 5 without a public hearing. The Department has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 - 14.28 (1984).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.131 - 14.20 (1984). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Steve Keefe
Commissioner, Department of Labor and Industry
5th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the adoption of these amendments is contained in Minn. Stat. § 176.102, subd. 10 (1984). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

Upon adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written comments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material to the Attorney General, including modifications to the amendments as originally proposed, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Commissioner at the above address.

The text of the proposed amendments follows this notice in the State Register. The amendments will permit QRC interns who were practicing on February 7, 1984, when the QRC eligibility requirements were increased, to become full status QRCs if they meet the criteria that were in effect prior to the 1984 increase in eligibility requirements. Presently, interns registered on or after February 7, 1984 must meet the new, more stringent requirements to be approved as full status QRCs.

These amendments may affect QRC firms. As these firms are service businesses regulated by government bodies, Minn. Stat. § 14.115, subd. 7(c) (1984) does not require the Commissioner to consider the small business impact of these amendments.

One free copy of the proposed amendments may be obtained by contacting Carla Mitrovich at the above address or by calling (612) 296-2342.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe
Commissioner, Department of
Labor and Industry

Dated: March 14, 1985.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Carla R. Mitrovich, being first duly sworn, deposes and says:

That on the 28 day of March, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Amend Rules Without a Public Hearing by depositing a copy thereof in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, properly enveloped, with postage prepaid, on all persons and groups who have requested that their names be placed on the list maintained by the Minnesota Department of Labor and Industry, Workers' Compensation Division, for the purpose of receiving notice of the proposed adoption of rules by this Department.

Carla R. Mitrovich

Subscribed and sworn to before me
this 28th day of March, 1985.

A. Colette M. Poxson

A. COLETTE M. POXSON
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JUNE 21, 1991

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

CERTIFICATE

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I hereby certify that the list of interested persons and groups who have requested, pursuant to Minn. Stat. § 14.22 (1984), that their names be placed on the list maintained by the Minnesota Department of Labor and Industry for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 9:00 A.M. this 28 day of March, 1985.

CARLA R. MITROVICH

By this notice, Minnesota OSHA proposes to adopt the definitions of "sulky type mower" and "deadman control" as published in the Federal Register (Volume 50, No. 22) on February 1, 1985.

Department of Labor and Industry Workers' Compensation Division

Proposed Rules Relating to Rehabilitation Consultant Qualifying

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division, proposes to adopt the above-captioned amendments to Minn. Rules pt. 5220.1400 subp. 5 without a public hearing. The Department has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1984).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (1984). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Steve Keefe
Commissioner, Department of Labor and Industry
5th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the adoption of these amendments is contained in Minn. Stat. § 176.102, subd. 10 (1984). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

Upon adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written comments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material to the Attorney General, including modifications to the amendments as originally proposed, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Commissioner at the above address.

The text of the proposed amendments follows this notice in the *State Register*. The amendments will permit QRC interns who were practicing on February 7, 1984, when the QRC eligibility requirements were increased, to become full status QRCs if they meet the criteria that were in effect prior to the 1984 increase in eligibility requirements. Presently, interns registered on or after February 7, 1984 must meet the new, more stringent requirements to be approved as full status QRCs.

These amendments may affect QRC firms: As these firms are service businesses regulated by government bodies, Minn. Stat. § 14.115, subd. 7(c) (1984) does not require the Commissioner to consider the small business impact of these amendments.

One free copy of the proposed amendments may be obtained by contacting Carla Mitrovich at the above address or by calling (612) 296-2342.

March 14, 1985

Steve Keefe
Commissioner, Department of
Labor and Industry

Rule as Proposed

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. to 4. [Unchanged.]

Subp. 5. General criteria. All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

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

A qualified rehabilitation consultant operating on the effective date of this amendment who is registered is deemed to meet the standards of this part. Registered qualified rehabilitation consultant interns operating on ~~the effective date of this amendment who are registered~~ February 7, 1984, must meet the minimum requirements ~~of this rule~~ in effect on February 6, 1984, in order to make application for qualified rehabilitation consultant registration.

Secretary of State

Proposed Rules Relating to Financing Statements

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Secretary of State proposes to modify the above-captioned rules without a public hearing. The modification corrects two referenced citations in the above-captioned rules. The Secretary of State has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in M.S. 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules and comment is encouraged. Each comment should identify the portion of the rule 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.

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the agency will proceed according to the provisions of M.S. 14.131 to 14.20.

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

Cheri Mattson
Office of the Secretary of State
180 State Office Building
St. Paul, MN 55155
(612) 296-2434

Authority for the adoption of these rules is contained in M.S. 336.9-403 Subd. 5 and 14.06. A copy of the proposed rule is attached to this notice. A statement of need and reasonableness that describes the need and reasonableness of the amendments has been prepared and is available from Cheri Mattson at the above address upon request.

If no hearing is required, upon adoption of the rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this

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 LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualified Eligibility Criteria for Rehabilitation Consultants

FINDINGS OF FACT AND CONCLUSIONS

The above-captioned amendments were published in the State Register, together with a Notice of Intent to Adopt Amendments without a Public Hearing, on April 1, 1985. Proper notice was served upon all interested persons and groups registered for that purpose with the Department of Labor and Industry, Workers' Compensation Division as required by Minn. Stat. § 14.22 (1984).

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

FINDINGS OF FACT

1. During the 30-day comment period following publication of the proposed amendments, one comment was received. That comment supported the proposed amendments.

2. No changes in the proposed amendments are needed, nor were changes requested by any person.

Based upon these Findings of Fact, and on the entire record in this matter, I make the following:

CONCLUSIONS

1. That the Department gave proper notice of the proposed amendments to all interested persons and groups.

2. That the Department has fully complied with all procedural requirements of law or rule in adopting the proposed amendments.

3. That the Department has acted within its statutory authority in adopting these proposed amendments.

4. That the proposed amendments are needed and reasonable and fully comply with substantive requirements imposed by law or rule.

STATE OF MINNESOTA

Steve Keefe

Steve Keefe, Commissioner
Department of Labor and Industry

Dated: May 22, 1985.

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

STATEMENT OF NEED AND REASONABLENESS

This rule amendment proceeding is limited to the grandfathering provision for qualified rehabilitation consultant ("QRC") interns contained in Minn. Rules pt. 5220.1400, subp. 5. The purpose of the proposed amendment is to permit certain QRC interns to become full-status QRCs if they meet the QRC eligibility requirements that were in effect when they became QRC interns.

Effective February 7, 1984, the eligibility requirements for QRC registration were tightened. As amended, Minn. Rules pt. 5220.1400, subp. 2 prescribes that QRCs and interns have a college degree in one of several areas related to vocational rehabilitation. Previously a high school diploma was adequate for approval. These changes were subsequently clarified by amendments which became effective January 2, 1985.

The 1984 amendments also imposed specific standards regarding QRCs and QRC interns practicing on the effective date of the 1984 amendments. Under part 5220.1400, subp. 5 existing full status QRCs could maintain their registration even if they did not meet the higher qualifying standards of the amended rules. Similarly, QRC interns were permitted to maintain their intern registration even if they did not meet the intern requirements of the amended rules. To become full status QRCs, however, QRC interns would be required to meet the new QRC eligibility criteria. The purpose of this provision was to prevent a last minute rush of QRC intern applicants who could not meet the higher QRC standards of the new rule. As the new rule was intended to upgrade QRC standards, permitting last minute intern applicants to become QRCs by meeting the inadequate old standard was contrary to the purpose of the 1984 amendments.

As a result of the 1984 amendments, approximately 15 QRC interns who were operating as interns on the effective date of the upgrading of QRC standards do not meet the higher QRC standards.

A typical example is an intern with a two year nursing degree. To qualify for QRC status under the new rules, the intern must obtain a four year nursing degree or other qualifying four year degree.

The commissioner's examination of the files of these 15 interns and his knowledge and observation of their work as interns indicates that grandfathering with respect to these persons is not detrimental to the commissioner's goal of providing high quality rehabilitation services to injured employees. Further, as a matter of fairness, the Commissioner believes that those persons who committed to the QRC profession with the reasonable belief that they could eventually qualify as full status QRCs should not be denied QRC status solely by the upgrading standards. Thus, the QRC applications of those interns who were active as interns when the rules changed should now be evaluated under the eligibility criteria in effect prior to the change in the rules. Interns who were not active on the effective date of the change would have to apply to become interns under the new eligibility criteria and are not grandfathered in by the proposed amendments.

IMPACT ON SMALL BUSINESS

The proposed amendments may affect QRC firms. As these firms are service businesses regulated by the Commissioner for standards and costs, Minn. Stat. § 14.115, subd. 7(c)(1984) does not require the Commissioner to consider the small business impact of the amendments.

FISCAL IMPACT ON LOCAL PUBLIC BODIES

The Commissioner has considered the fiscal impact of these rules on local public bodies pursuant to Minn. Stat. § 14.11, subd. 1 (1984) and has found none. No additional financial burdens are placed on local public bodies, as the adoption of these amendments will not require the expenditure of public monies by local bodies.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

CERTIFICATE OF COMPLIANCE WITH RULEMAKING PROCEDURES

I hereby certify that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures; the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Leslie M. Altman
Special Assistant
Attorney General

Dated: May 23, 1985.

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Carla Mitrovich, being first duly sworn, deposes and says:

That on the 23rd day of May, 1985, in the City of St. Paul, County of Ramsey, State of Minnesota, she served a copy of the attached Notice of Submission to the Attorney General by depositing it in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, properly enveloped, with postage prepaid, on all persons and groups who requested notice that the above-captioned rules have been submitted to the Attorney General.

Carla Mitrovich

Subscribed and sworn to before me
this 23rd day of May, 1985.

Rosemary L. LaRue

ROSEMARY L. LARUE
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 11, 1990

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Workers' Compensation Division, of Amendments to Rules Governing Qualifying Eligibility Criteria for Rehabilitation Consultants

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. §14.26 (1984):

PLEASE TAKE NOTICE that the above-captioned rules, which have not been modified, were submitted to the Office of the Attorney General on this date, May 23, 1985, for review as to legality. Pursuant to Minn. Rules, part 2000.0700, subp. 2, the Attorney General will not approve the rules for at least eight calendar days after receipt to allow any person or group time to comment on the legality of the rules. The Commissioner will then have an opportunity to respond to comment, after which the Attorney General's Office will complete its review.

Comments on the legality of the above-captioned rules, should be directed to the Office of the Attorney General, 204 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, telephone (612) 296-1288. Please note that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to the Department of Labor and Industry.

A free copy of the final rules as adopted is enclosed with this notice.

STATE OF MINNESOTA

Steve Keefe
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
WORKERS' COMPENSATION DIVISION

In the Matter of the Proposed Adoption
by the Minnesota Department of Labor
and Industry, Workers' Compensation
Division, of Amendments to Rules Governing
Qualifying Eligibility Criteria for
Rehabilitation Consultants

CERTIFICATE

I hereby certify that the list of interested persons and groups who have requested that their names be placed on lists maintained by the Department of Labor and Industry for the purpose of receiving notice of the submission of the rules to the Attorney General by the Department of Labor and Industry pursuant to Minn. Stat. § 14.26 (1984) is accurate and complete as of 2:00 PM, this 23rd day of May, 1985.

Carla Mitrovich