

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1188 05-0009-0884

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-22-85
DATE FOR REVIEW 7-31-85
DATE DUE 8-5-85

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

Approved 8/5/85 Disapproved _____ Returned to Agency _____

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

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

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 7.22.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 7.23.84 No comments rec'd.

✓ Order for rulemaking
_____ 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

✓ Aff. 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

N/A LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

see two folders.

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

✓ Approval of Dept. of Finance. 3.21.85 and 7.18.85

✓ Misc materials

_____ COMMENTS to Attorney General.
- written
- notes of phone conversations w/ JUW
- telephone messages.

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

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

DATE: 8-8-85

ATTN: MARY L. STANISLAV
Special Assistant Attorney General

FROM: J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Licensing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040.

The above-referenced rule has been approved as to its legality by the Attorney General on August 5, 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.

JMM:sz

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Department of Human Services

Adopted Rules Relating to Licensing Fees For Day Care and Residential Facilities and Agencies

Rules as Adopted

9545.2000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9545.2000 to 9545.2040 have the meanings given to them in this part.

Subp. 2. **Agency.** "Agency" means any individual, organization, association, or corporation which for gain or otherwise regularly provides needed social or counseling services for persons living in their own homes, or receives persons unable to remain in their own homes and places them in residential or foster care, or places persons in adoptive homes. "Agency" includes semi-independent living services (SILS) licensed under parts 9525.0500 to 9525.0660. "Agency" does not include a local welfare agency or agencies sponsored by community mental health boards pursuant to Minnesota Statutes, section 245.66.

Subp. 3. **Base fee.** "Base fee" means the portion of the licensing fee that constitutes the minimum charge to an operator regardless of the licensed capacity or number of persons served in the day care or residential facility or agency.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 5. **Day care facility.** "Day care facility" means any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. "Day care facility" includes outpatient treatment programs for chemically dependent persons licensed under parts 9530.5000 to 9530.6500.

Subp. 6. **Department.** "Department" means the Minnesota

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Department of Human Services.

Subp. 7. **License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period of time in accordance with the terms of the license, Minnesota Statutes, sections 245.781 to 245.812, and 252.28, subdivision 2, and the rules of the commissioner. "License" includes a provisional license issued to an operator who is temporarily unable to comply with all of the requirements for a license.

Subp. 8. **Licensed capacity.** "Licensed capacity" means the maximum number of persons permitted under the terms of a license to receive care at any one time in a day care or residential facility or agency.

Subp. 9. **Licensed capacity fee.** "Licensed capacity fee" means the portion of the licensing fee charged to an operator based on the licensed capacity of the day care or residential facility or agency.

Subp. 10. **Licensing fee.** "Licensing fee" means the fee charged to an operator by the department for issuing or renewing a license.

Subp. 11. **Licensing fee formula.** "Licensing fee formula" means the procedure used by the department to determine the licensing fee.

Subp. 12. **Operator.** "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a day care or residential facility or agency.

Subp. 13. **Regularly or regular basis.** "Regularly" or "regular basis" means a cumulative total of more than 30 days within any 12-month period.

Subp. 14. **Residential facility.** "Residential facility" means any facility, public or private, which provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own

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home. "Residential facility" does not include state hospitals or other state-operated residential facilities.

Subp. 15. **Waiver.** "Waiver" means written permission by the commissioner for an operator to depart from the provisions of ~~parts~~ part 9545.2020 ~~to 9545.2030~~.

9545.2010 APPLICABILITY.

Subpart 1. **Applicability.** Parts 9545.2000 to 9545.2040 establish procedures for the department to determine and collect fees for issuing and renewing licenses for day care and residential facilities and agencies. Parts 9545.2000 to 9545.2040 apply to operators of all day care and residential facilities and agencies required to be licensed under Minnesota Statutes, sections 245.781 to 245.812, and 252.28, subdivision 2, except family foster care homes licensed under parts 9545.0010 to 9545.0260 and family day care homes licensed under parts 9545.0315 to 9545.0445, which are exempt from the licensing fees established in parts 9545.2000 to 9545.2040 under Minnesota Statutes, section 245.811, subdivision 1.

9545.2020 LICENSING FEE FORMULA.

Subpart 1. **General formula.** ~~Beginning July 1, 1985,~~ The department shall charge the following annual fees for issuing and renewing licenses:

A. A base fee of $25, increasing to $35 beginning July 1, 1987, $45 beginning July 1, 1989, and $55 beginning July 1, 1991.

B. A licensed capacity fee of $5 multiplied by the licensed capacity of each day care or residential facility or agency. The $5 fee shall increase to $6 beginning July 1, 1987, $7 beginning July 1, 1989, and $8 beginning July 1, 1991.

C. The base fee plus the licensed capacity fee is the licensing fee to be charged to each operator at the time of application for issuance or renewal of a license.

Subp. 2. **Exceptions.** The following are exceptions to the fees established in subpart 1:

A. The licensing fee for group day care centers

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licensed under parts 9545.0510 to 9545.0670 shall be one-half of the ~~licensing~~ base fee in subpart 1, item A, plus a licensed capacity fee of $1.50 multiplied by the licensed capacity of each day care center. The $1.50 fee shall increase to $2 beginning July 1, 1987, $2.50 beginning July 1, 1989, and $3 beginning July 1, 1991.

B. The licensing fee for child-caring and child-placing agencies licensed under parts 9545.0750 to 9545.0830 shall be the base fee in subpart 1, item A, plus 50 cents for each adoption decree granted by a court in the previous year for a child placed in an adoptive home by the agency and 50 cents for each foster home supervised by the agency. The 50-cent fees shall increase to 60 cents beginning July 1, 1987, 70 cents beginning July 1, 1989, and 80 cents beginning July 1, 1991.

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~~ An application for a license or license renewal is not complete and no license shall be issued until the licensing fee is paid. If an operator requests a waiver under

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part 9545.2040, the application for a license or license renewal is not complete and no license shall be issued until the commissioner has acted on the request and the licensing fee approved by the commissioner has been 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~~ part 9545.2020 ~~to 9545.2030~~. The request for a waiver must be submitted to the department in writing and must accompany an operator's application for issuance or renewal of a license and the licensing fee determined under parts 9545.2020 and 9545.2030, subpart 2. The request must include the following information:

A. the section or sections of ~~parts~~ part 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.** The commissioner may waive part or all of the licensing fee. A waiver may be granted only if the operator has shown that financial hardship to the operator or facility or agency would occur from strict compliance with ~~parts~~ part 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~~. The written decision must accompany the commissioner's decision to approve or deny the license application. If the commissioner denies a request, the written decision must inform the operator of the reason or reasons for the denial. If the commissioner grants the request, the licensing fee submitted with the request shall be returned to the operator with instructions for submitting the fee approved by the commissioner.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

APPROVED AS TO FORM AND LEGALITY

8/5 1985

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 8 1985
Joan Anderson Growe
Secretary of State

2:33
P.M.

Rules as Proposed (all new material)

9545.2000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9545.2000 to 9545.2040 have the meanings given to them in this part.

Subp. 2. **Agency.** "Agency" means any individual, organization, association, or corporation which for gain or otherwise regularly provides needed social or counseling services for persons living in their own homes, or receives persons unable to remain in their own homes and places them in residential or foster care, or places persons in adoptive homes. "Agency" includes semi-independent living services (SILS) licensed under parts 9525.0500 to 9525.0660. "Agency" does not include a local welfare agency or agencies sponsored by community mental health boards pursuant to Minnesota Statutes, section 245.66.

Subp. 3. **Base fee.** "Base fee" means the portion of the licensing fee that constitutes the minimum charge to an operator regardless of the licensed capacity or number of persons served in the day care or residential facility or agency.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 5. **Day care facility.** "Day care facility" means any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. "Day care facility" includes outpatient treatment programs for chemically dependent persons licensed under parts 9530.5000 to 9530.6500.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 7. **License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period of time in accordance with the terms of the license, Minnesota Statutes, sections 245.781 to

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245.812, and 252.28, subdivision 2, and the rules of the commissioner. "License" includes a provisional license issued to an operator who is temporarily unable to comply with all of the requirements for a license.

Subp. 8. **Licensed capacity.** "Licensed capacity" means the maximum number of persons permitted under the terms of a license to receive care at any one time in a day care or residential facility or agency.

Subp. 9. **Licensed capacity fee.** "Licensed capacity fee" means the portion of the licensing fee charged to an operator based on the licensed capacity of the day care or residential facility or agency.

Subp. 10. **Licensing fee.** "Licensing fee" means the fee charged to an operator by the department for issuing or renewing a license.

Subp. 11. **Licensing fee formula.** "Licensing fee formula" means the procedure used by the department to determine the licensing fee.

Subp. 12. **Operator.** "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a day care or residential facility or agency.

Subp. 13. **Regularly or regular basis.** "Regularly" or "regular basis" means a cumulative total of more than 30 days within any 12-month period.

Subp. 14. **Residential facility.** "Residential facility" means any facility, public or private, which provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home.

Subp. 15. **Waiver.** "Waiver" means written permission by the commissioner for an operator to depart from the provisions of parts 9545.2020 to 9545.2030.

9545.2010 APPLICABILITY.

Subpart 1. **Applicability.** Parts 9545.2000 to 9545.2040

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establish procedures for the department to determine and collect fees for issuing and renewing licenses for day care and residential facilities and agencies. Parts 9545.2000 to 9545.2040 apply to operators of all day care and residential facilities and agencies required to be licensed under Minnesota Statutes, sections 245.781 to 245.812, and 252.28, subdivision 2, except family foster care homes licensed under parts 9545.0010 to 9545.0260 and family day care homes licensed under parts 9545.0315 to 9545.0445, which are exempt from the licensing fees established in parts 9545.2000 to 9545.2040 under Minnesota Statutes, section 245.811, subdivision 1.

9545.2020 LICENSING FEE FORMULA.

Subpart 1. **General formula.** Beginning July 1, 1985, the department shall charge the following annual fees for issuing and renewing licenses:

A. A base fee of $25, increasing to $35 beginning July 1, 1987, $45 beginning July 1, 1989, and $55 beginning July 1, 1991.

B. A licensed capacity fee of $5 multiplied by the licensed capacity of each day care or residential facility or agency. The $5 fee shall increase to $6 beginning July 1, 1987, $7 beginning July 1, 1989, and $8 beginning July 1, 1991.

C. The base fee plus the licensed capacity fee is the licensing fee to be charged to each operator at the time of application for issuance or renewal of a license.

Subp. 2. **Exceptions.** The following are exceptions to the fees established in subpart 1:

A. The licensing fee for group day care centers licensed under parts 9545.0510 to 9545.0670 shall be one-half of the licensing fee in subpart 1.

B. The licensing fee for child-caring and child-placing agencies licensed under parts 9545.0750 to 9545.0830 shall be the base fee in subpart 1, item A, plus 50 cents for each adoption decree granted by a court in the previous year for a child placed in an adoptive home by the agency and 50 cents for each foster home supervised by the

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agency. The 50-cent fees shall increase to 60 cents beginning July 1, 1987, 70 cents beginning July 1, 1989, and 80 cents beginning July 1, 1991.

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

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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.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD749

Agency: Department of Human Services

Division:

Agency Contact: Barry Stern 297-1490

Minnesota Rules: Parts 9545.2000 to 9545.2040

Title: Proposed Rules Relating to Licensing Fees For Day Care And Residential Facilities And Agencies.

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Susan M. Lentsch
Assistant Revisor
Phone: 296-0956

Date: March 22, 1985

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING LICENSING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

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 Statutes, section 14.14, subd. 1, on April 3, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, holding no public hearing in accordance with Minnesota Statutes, section 16A.128, subd. 2a, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Licensing Fees for Day Care and Residential Facilities and Agencies are adopted this 22nd day of July, 1985, pursuant to authority vested in me by Minnesota Statutes, section 245.811, subdivision 2.

STATE OF MINNESOTA



LEONARD W. LEVINE, Commissioner
Department of Human Services

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Mary Stanislav, 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.

Mary L. Stanislav
Special Assistant - Attorney General

Dated: July 18,1985

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

AFFIDAVIT OF MAILING OF THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT A PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

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

That on the 22 day of July, 1985, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Ann M. Berg

Subscribed and sworn to before me

this 22 day of July, 1985.

Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 15, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT A PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

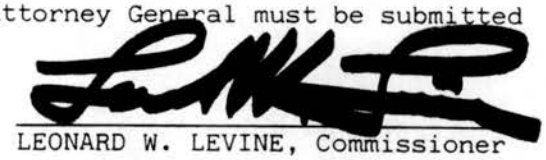
PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on this date, July 22, 1985, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on April 8, 1985, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order adopting the rule is available upon request from Barry Stern, Department of Human Services, Rules Unit, Fourth Floor, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 297-1490.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or specific parts or subparts of the rule. Your comments must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MInnesota 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to this agency.



LEONARD W. LEVINE, Commissioner
Department of Human Services

Dated: July 22, 1985

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION
OF DEPARTMENT OF HUMAN SERVICES RULES
GOVERNING LICENSING FEES FOR DAY CARE
AND RESIDENTIAL FACILITIES AND AGENCIES,
MINNESOTA RULES, PARTS 9545.2000 TO
9545.2040.

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. No public hearing will be held in accordance with Minnesota Statutes, section 16A.128, subdivision 2a.

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.

Persons who wish to submit comments should submit such comments to:

Barry Stern
Rulemaking Unit
Minnesota Department of Human Services
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone (612) 297-1490

The statutory authority of the Department for the proposed rules is contained in Minnesota Statutes, section 245.811, subdivision 2.

The proposed parts 9545.2000 to 9545.2040 establish procedures for the Minnesota Department of Human Services to determine and collect fees from operators of day care and residential facilities and agencies required to be licensed under Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, known as the Public Welfare Licensing Act.

Part 9545.2000 provides definitions to words and phrases used throughout parts 9545.2000 to 9545.2040 which are necessary to ensure a clear understanding of the rule parts.

Part 9545.2010 states the applicability of the rule parts by identifying the facilities and agencies to which the rule parts do and do not apply.

Part 9545.2020 establishes the licensing fee formula for calculating the licensing fee to be charged to each facility and agency.

Part 9545.2030 establishes the payment procedure for collecting licensing fees from operators.

Part 9545.2040 establishes the procedure for requesting and granting a fee or payment waiver.

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

Licensing Division
Minnesota Department of Human Services
Sixth Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone (612) 296-3971

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 the Licensing Division 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.

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 comment 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 Barry Stern.

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 LICENSING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

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 EXPRIES SEPTEMBER 26, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING LICENSING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040.

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. No public hearing will be held in accordance with Minnesota Statutes, section 16A.128, subdivision 2a.

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.

Persons who wish to submit comments should submit such comments to:

Barry Stern
Rulemaking Unit
Minnesota Department of Human Services
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone (612) 297-1490

The statutory authority of the Department for the proposed rules is contained in Minnesota Statutes, section 245.811, subdivision 2.

The proposed parts 9545.2000 to 9545.2040 establish procedures for the Minnesota Department of Human Services to determine and collect fees from operators of day care and residential facilities and agencies required to be licensed under Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, known as the Public Welfare Licensing Act.

Part 9545.2000 provides definitions to words and phrases used throughout parts 9545.2000 to 9545.2040 which are necessary to ensure a clear understanding of the rule parts.

Part 9545.2010 states the applicability of the rule parts by identifying the facilities and agencies to which the rule parts do and do not apply.

Part 9545.2020 establishes the licensing fee formula for calculating the licensing fee to be charged to each facility and agency.

Part 9545.2030 establishes the payment procedure for collecting licensing fees from operators.

Part 9545.2040 establishes the procedure for requesting and granting a fee or payment waiver.

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

Licensing Division
Minnesota Department of Human Services
Sixth Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone (612) 296-3971

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 the Licensing Division 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.

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 comment 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 Barry Stern.

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 LICENSING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040.

AFFIDAVIT OF ADDITIONAL MAILING

Marcine M McClellan, being first duly sworn, deposes and says:

That on the 5 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, to the following agencies:

Approximately 2,000 licensed day care, residential and non-residential facilities except family day care and foster care facilities

HOLLY JO ROBINSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires 10-04-90

Marcine M McClellan

Subscribed and sworn to before me

this 23 day of April, 1985.

Holly J Robinson

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING LICENSING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

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 Y Berg

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040.

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

Department of Human Services
Support Services Bureau

Outside Opinion Sought Concerning a Proposed Rule to Establish a Licensing Fee Schedule

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate a new rule to establish a licensing fee schedule. All facilities licensed by the Department of Human Services Licensing Division will be charged a licensing fee based on the fee schedule established in this rule. The promulgation of this rule is authorized by Laws of Minnesota 1984, chapter 654, article 5, section 18.

The Minnesota Department of Human Services requests information and comments concerning the subject matter of this proposed rule. All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Linda Donahue, Assistant Director
Special Services Division
Support Services Bureau
Department of Human Services
Centennial Building — 4th Floor
658 Cedar Street
St. Paul, MN 55155
Telephone: 612/296-6633 (regular business hours)

All statements of information and comment shall be accepted until further notice.

Department of Labor and Industry
Prevailing Wage Division

Notice of Prevailing Wage Rates for Commercial Construction

On July 13, 1984 the commissioner certified prevailing wage rates for the following Minnesota counties: Becker, Beltrami, Benton, Big Stone, Cass, Chippewa, Chisago, Clay, Clearwater, Cook, Cottonwood, Crow Wing, Dodge, Douglas, Fillmore, Freeborn, Goodhue, Grant, Houston, Hubbard, Isanti, Jackson, Kanabec, Kandiyohi, Kittson, Lac Qui Parle, Lake of the Woods, Lincoln, Lyon, Mahnomen, Marshall, McLeod, Meeker, Mille Lacs, Morrison, Mower, Murray, Nobles, Norman, Ottertail, Pennington, Pine, Pipestone, Polk, Pope, Red Lake, Redwood, Renville, Rice, Rock, Roseau, Sherburne, Sibley, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena, Wilkin, Winona, Wright and Yellow Medicine.

A copy of the determined wage rates for Minnesota counties may be obtained by writing to the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are $.50 for the first county and $.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is $25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor & Industry

Department of Transportation

Notice to Disadvantaged Business Enterprises and Women-Owned Business Enterprises

The Minnesota Department of Transportation announces the establishment of Disadvantaged Business Enterprise (DBE) goals of ten percent (10%) and Women Owned Business Enterprise (WBE) goals of three percent (3%) for the Section 8, 16(b)(2), and 18 programs as described in the Urban Mass Transportation Act of 1964, as amended and in accordance with Section 105(f) of the 1982 Surface Transportation Assistance Act.

The Minnesota Department of Transportation is requesting DBE's/WBE's capable of providing goods and services in support of public transportation including, but not limited to: insurance, office supplies and equipment, building maintenance, vehicle

Subp. 3. Retention of records. An employer, employment agency, labor organization, or an operator of an apprenticeship or other training program subject to the act must retain all applicant and employment records for one year after the records are made.

5000.2220 CHARGES NOT TO BE PROCESSED.

The commissioner may choose not to process: (a) a moot charge; or (b) a charge without priority which the commissioner believes does not warrant further use of department resources.

5000.2230 DISMISSAL OF FRIVOLOUS CHARGES.

The department may dismiss a charge the commissioner believes:

A. is illogical, fantastic, or incoherent;

B. is negated by common knowledge which the commissioner takes official notice of;

C. is brought by a charging party acting in bad faith;

D. is substantially the same as a previous charge in which no probable cause was found, and involves the same charging party but a different respondent.

5000.2240 DISMISSAL FOR FAILURE TO PROVIDE INFORMATION.

Subpart 1. When. The commissioner may dismiss a charge or a would-be charge for failure to provide required information:

A. when the would-be charge does not conform to part 5000.0400; or

B. when the information about a charge that the department has is insufficient to make a determination, and the charging party fails to provide:

(1) information which the charging party claims to have or knows how to obtain which may substantiate an allegation;

(2) a signed withdrawal of the charge after indicating a lack of interest in pursuing the charge;

(3) information essential to a charge that requires amending; or

(4) failure of the charging party to provide a copy of the summons and complaint after notifying the department that a civil suit has been filed.

Subp. 2. Procedure. If informal means of obtaining the information fail, the commissioner shall notify the charging party by certified and first class mail of the need for the required information and the possibility of dismissal of the charge for failure to provide required information. If the information is not delivered within 30 days of the date of notice, the commissioner may dismiss the charge.

REPEALER. Minnesota Rules, parts 5000.0100, subpart 14; 5000.0500, subpart 5; 5000.0700, subparts 2, 3, 4, 5, 6, and 7; 5000.0800, subpart 4; 5000.1400; 5000.1500; 5000.1600; 5000.1700; 5000.1800; 5000.1900; 5000.2000; and 5000.2100 are repealed.

Department of Human Services

Proposed Rules Relating to Licensing Fees For Day Care And Residential Facilities And Agencies

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. No public hearing will be held in accordance with Minnesota Statutes, section 16A.128, subdivision 2a.

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.

Persons who wish to submit comments should submit such comments to:

Barry Stern
Rulemaking Unit
Minnesota Department of Human Services
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone (612) 297-1490

The statutory authority of the Department for the proposed rules is contained in Minnesota Statutes, section 245.811, subdivision 2.

The proposed parts 9545.2000 to 9545.2040 establish procedures for the Minnesota Department of Human Services to determine and collect fees from operators of day care and residential facilities and agencies required to be licensed under Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, known as the Public Welfare Licensing Act.

Part 9545.2000 provides definitions to words and phrases used throughout parts 9545.2000 to 9545.2040 which are necessary to ensure a clear understanding of the rule parts.

Part 9545.2010 states the applicability of the rule parts by identifying the facilities and agencies to which the rule parts do and do not apply.

Part 9545.2020 establishes the licensing fee formula for calculating the licensing fee to be charged to each facility and agency.

Part 9545.2030 establishes the payment procedure for collecting licensing fees from operators.

Part 9545.2040 establishes the procedure for requesting and granting a fee or payment waiver.

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

Licensing Division
Minnesota Department of Human Services
Sixth Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone (612) 296-3971

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 the Licensing Division 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.

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 comment 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 Barry Stern.

March 25, 1985

Leonard W. Levine
Commissioner of Human Services

Rules as Proposed (all new material)

9545.2000 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 9545.2000 to 9545.2040 have the meanings given to them in this part.

Subp. 2. Agency. "Agency" means any individual, organization, association, or corporation which for gain or otherwise regularly provides needed social or counseling services for persons living in their own homes, or receives persons unable to remain in their own homes and places them in residential or foster care, or places persons in adoptive homes. "Agency" includes semi-independent living services (SILS) licensed under parts 9545.0500 to 9545.0660. "Agency" does not include a local welfare agency or agencies sponsored by community mental health boards pursuant to Minnesota Statutes, section 245.66.

Subp. 3. Base fee. "Base fee" means the portion of the licensing fee that constitutes the minimum charge to an operator regardless of the licensed capacity or number of persons served in the day care residential facility or agency.

Subp. 4. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

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.

Subp. 5. Day care facility. "Day care facility" means any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. "Day care facility" includes outpatient treatment programs for chemically dependent persons licensed under parts 9530.5000 to 9530.6500.

Subp. 6. Department. "Department" means the Minnesota Department of Human Services.

Subp. 7. License. "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period of time in accordance with the terms of the license. Minnesota Statutes, sections 245.781 to 245.812, and 252.28, subdivision 2, and the rules of the commissioner. "License" includes a provisional license issued to an operator who is temporarily unable to comply with all of the requirements for a license.

Subp. 8. Licensed capacity. "Licensed capacity" means the maximum number of persons permitted under the terms of a license to receive care at any one time in a day care or residential facility or agency.

Subp. 9. Licensed capacity fee. "Licensed capacity fee" means the portion of the licensing fee charged to an operator based on the licensed capacity of the day care or residential facility or agency.

Subp. 10. Licensing fee. "Licensing fee" means the fee charged to an operator by the department for issuing or renewing a license.

Subp. 11. Licensing fee formula. "Licensing fee formula" means the procedure used by the department to determine the licensing fee.

Subp. 12. Operator. "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a day care or residential facility or agency.

Subp. 13. Regularly or regular basis. "Regularly" or "regular basis" means a cumulative total of more than 30 days within any 12-month period.

Subp. 14. Residential facility. "Residential facility" means any facility, public or private, which provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home.

Subp. 15. Waiver. "Waiver" means written permission by the commissioner for an operator to depart from the provisions of parts 9545.2020 to 9545.2030.

9545.2010 APPLICABILITY.

Subpart 1. Applicability. Parts 9545.2000 to 9545.2040 establish procedures for the department to determine and collect fees for issuing and renewing licenses for day care and residential facilities and agencies. Parts 9545.2000 to 9545.2040 apply to operators of all day care and residential facilities and agencies required to be licensed under Minnesota Statutes, sections 245.781 to 245.812, and 252.28, subdivision 2, except family foster care homes licensed under parts 9545.0010 to 9545.0260 and family day care homes licensed under parts 9545.0315 to 9545.0445, which are exempt from the licensing fees established in parts 9545.2000 to 9545.2040 under Minnesota Statutes, section 245.811, subdivision 1.

9545.2020 LICENSING FEE FORMULA.

Subpart 1. General formula. Beginning July 1, 1985, the department shall charge the following annual fees for issuing and renewing licenses:

A. A base fee of $25, increasing to $35 beginning July 1, 1987, $45 beginning July 1, 1989, and $55 beginning July 1, 1991.

B. A licensed capacity fee of $5 multiplied by the licensed capacity of each day care or residential facility or agency. The $5 fee shall increase to $6 beginning July 1, 1987, $7 beginning July 1, 1989, and $8 beginning July 1, 1991.

C. The base fee plus the licensed capacity fee is the licensing fee to be charged to each operator at the time of application for issuance or renewal of a license.

Subp. 2. Exceptions. The following are exceptions to the fees established in subpart 1:

A. The licensing fee for group day care centers licensed under parts 9545.0510 to 9545.0670 shall be one-half of the licensing fee in subpart 1.

B. The licensing fee for child-caring and child-placing agencies licensed under parts 9545.0750 to 9545.0830 shall be the base fee in subpart 1, item A, plus 50 cents for each adoption decree granted by a court in the previous year for a child placed in an adoptive home by the agency and 50 cents for each foster home supervised by the agency. The 50-cent fees shall increase to 60 cents beginning July 1, 1987, 70 cents beginning July 1, 1989, and 80 cents beginning July 1, 1991.

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.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Licensing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, parts 9545.2000 to 9545.2040.

Findings of Fact and Conclusions

Notice of the Commissioner's intent to adopt the above-entitled rule 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 Statutes, section 14.14, subdivision 1(a) on April 3, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, holding no public hearing in accordance with Minnesota Statutes, section 16A.128, subdivision 2a, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules, I find the following:

Minnesota Rules, parts 9545.2000 to 9545.2040 are to be adopted as proposed with the following amendments:

9545.2000 DEFINITIONS

Subp. 14 . Residential facility. "Residential facility" means any facility, public or private, which provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. "Residential facility" does not include state hospitals or other state-operated residential facilities. p.3

The reason for the change is to clarify that licensing fees are not charged to state hospitals and other state-operated residential facilities. This question was raised during the 30-day comment period. The addition is required for clarification purposes only. The addition is not, therefore, a substantial change.

9545.2000 DEFINITIONS

Subp. 15. Waiver. "waiver" means written permission by the commissioner for an operator to depart from the provisions of ~~parts~~ part 9545.2020 ~~to 9545.2030~~. p.3

The reasons for the change are to clarify which rule provisions may be waived and to ensure consistency between rule provisions. The reference to part 9545.2030 is omitted because permitting a waiver of the payment procedure or noncompliance provision would conflict and be inconsistent with the waiver procedure in part 9545.2040 and prevent enforcement of the rule. Permitting a waiver of the proration of fees provision would be inconsistent with the rationale that facilities and agencies are charged fees for a license to do business in the state for a specified period of time. The waiver procedure is intended to permit operators in situations of financial hardship to pay licensing fees lower than the fees determined under the licensing fee formula in part 9545.2020. The change clarifies the intention of the waiver provision and prevents inconsistencies in the rule; therefore, the change is not a substantial change.

9545.2020 LICENSING FEE FORMULA

Subp. 1. General formula. ~~Beginning July 1, 1985, the~~ The department shall charge the following annual fees for issuing and renewing licenses:... p.3

The reason for the change is to ensure consistency between the rule provisions and the effective date. The rule was originally anticipated to be adopted during June, 1985 and be effective on or before July 1, 1985. Due to an extended review of the rule by the department, the July 1 deadline has not been met. Therefore, the reference to July 1 as the effective date is omitted because the rule will not become effective until August or September, 1985. The change is for consistency purposes only and is, therefore, not a substantial change.

9545.2020 LICENSING FEE FORMULA

Subp. 2. Exceptions. ...

A. The licensing fee for group day care centers licensed under parts 9545.0510 to 9545.0670 shall be one-half of the ~~licensing~~ base fee in subpart 1, item A, plus a licensed capacity fee of $1.50 multiplied by the licensed capacity of each day care center. The $1.50 fee shall increase to $2 beginning July 1, 1987, $2.50 beginning July 1, 1989, and $3 beginning July 1, 1991. ... p.4

The changes lower the licensed capacity fee (and, therefore, the licensing fee) for group day care centers from $2.50 to $1.50, and from $3 to $2, $3.50 to $2.50, and $4 to $3 beginning July 1, 1987, 1989, and 1991, respectively. The changes are a result of the department's review of more than 130 public comments received from group day care centers expressing strong opposition to large fee increases. The lower fees are intended to reduce the fiscal impact on group day care centers, which have recently been financially burdened by rising insurance and other costs. As a result of these changes, the licensing fee for the average group day care center (licensed capacity of 38 children) will be lowered from $107.50 to $69.50. The fee schedule for group day care centers will change as follows:

	1975-present	1986-fiscal year
6 - 25 children	$ 10.00	$21.50 - 50.00
26 - 50 children	15.00	51.50 - 87.50
51 - 100 children	25.00	89.00 - 162.50
101 - 150 children	50.00	164.00 - 237.50
151+ children	75.00	239.00+

Because the changes benefit all group day care centers by simply lowering the fees from those published in the State Register with the notice of intent to adopt rules on April 8, 1985, the changes are not substantial changes.

9545.2030 LICENSING FEE PAYMENT

Subp. 3. Noncompliance. ~~The department shall not take any action or an operator's application~~ An application for a license or license renewal is not complete and no license shall be issued until the licensing fee is paid. If an operator requests a waiver under part 9545.2040, the application for a license or license renewal is not complete and no license shall be issued until the commissioner has acted on the request and the licensing fee approved by the comissioner has been paid. p.4,5

The reason for the change is to clarify the licensing fee payment procedure and to assure consistency with the Public Welfare Licensing Act, Minnesota Statutes, section 245.801. subdivision 2, which states: "Failure of the commissioner to approve or deny an application within 90 days of receipt of a completed application shall be deemed to be an approval of license." If the language "The department shall not take any action on an operator's application until the licensing fee is paid" were to remain in the rule, it is possible that a license application submitted without the fee could result in an approved license at the end of the 90-day period, under section 245.801,subdivision 2. Thus, nonpayment of a fee would result in the issuance of a license. To clarify the payment procedure and assure consistency with statute, the first sentence of this provision has been changed. The last sentence was added for similar reasons and to assure consistency with the waiver procedure in part 9545.2040; therefore, the change is not a substantial change.

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~~ part 9545.2020 ~~to 9545.2030~~. The request for a waiver must be submitted to the department in writing and must accompany an operator's application for issuance or renewal of a license and the licensing fee determined under parts 9545.2020 and 9545.2030, subpart 2. The request must include the following information: p.5

A. the section or sections of ~~parts~~ part 9545.2020 ~~to 9545.2030~~ with which the operator cannot comply; p.5

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.

The reasons for changing "parts 9545.2020 to 9545.2030" to "part 9545.2020" are given in the discussion of the reasons for changing the same language in part 9545.2000, subpart 15, above.

The reason for the additional change is to clarify how and when requests for waivers are submitted. This question was raised during the 30-day comment period; therefore, the addition is required to clarify the waiver application procedure intended to be used by operators and prescribed by the department. It is necessary and reasonable for the request for waiver to accompany the license application because this is simple and efficient. A waiver determination made prior to a licensure determination would be an unnecessary use of department resources if the license application is subsequently denied. A waiver determination approved after a license application is approved would require the department to refund part or all of the licensing fee to the operator after the licensing fee has been deposited into the General Fund. Written decisions to grant or deny waivers must accompany licensure decisions under part 9545.2040, subpart 3; therefore, it is reasonable that both applications be submitted simultaneously to avoid confusion and promote simplicity and efficiency. It is necessary and reasonable to require the full licensing fee to be submitted with the request for waiver so that operators of facilities or agencies without financial difficulties do not request a waiver solely to receive a fee deferral for up to 90 days. The procedure assures that licensing fees are timely submitted and promptly deposited in the General Fund unless a request for a waiver is received. Therefore, the additional changes simply clarify the procedure for requesting a waiver by prescribing in more detail how and when requests are submitted. The changes are not, therefore, substantial changes.

9545.2040 WAIVER

Subp. 2. Standard for granting waiver. The commissioner may waive part or all of the licensing fee. A waiver may be granted only if the operator has shown that financial hardship to the operator or facility or agency would occur from strict compliance with ~~parts~~ part 9545.2020 ~~to 9545.2030.~~ p5

The reason for adding the first sentence is to clarify that fees may be waived in whole or in part, depending on the financial condition of the operator or facility or agency. This change also clarifies that operators may request a partial waiver, are not limited to requesting a full waiver under part 9545.2040, subpart 1, item B.

The reason for adding the language "to the operator or facility of agency" is to clarify that the term "financial hardship" is intended to apply to the operator or facility or agency (or both), and not solely to the operator or solely to the facility or agency. It also clarified that "financial hardship" does not apply to persons served by the facility or agency. While many persons served may be in situations of financial hardship, fees are charged to facilities and agencies, therefore, waivers are based on the financial conditions of the facility or agency.

The reasons for changing "parts 9545.2020 to 9545.2030" to "part 9545.2020" are given in the discussion of the reasons for changing the same language in part 9545.2000, subpart 15, above.

These changes are for clarification purposes only and are, therefore, not substantial changes.

9545.2040 WAIVER

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~~. The written decision must accompany the commissioner's decision to approve or deny the license application. If the commissioner denies a request, the written decision must p5,6

inform the operator of the reason or reasons for the denial. If the commissioner grants the request, the licensing fee submitted with the request shall be returned to the operator with instructions for submitting the fee approved by the commissioner.

The reason for omitting the 30-day requirement is to avoid any inconsistencies with other provisions in part 9545.2040. As stated in the discussion of the reason for changes in part 9545.2040, subpart 1, above, it is reasonable that waiver and license applications be submitted and decided on simultaneously. Because Minnesota Statutes, section 245.801, subdivision 2 allows the commissioner 90 days to approve or deny a license application, the same time limit must apply to granting or denying waiver requests if they are to be considered together. Therefore, the 30-day requirement must be omitted to avoid inconsistencies with the decision making requirement in statute and the procedure for simultaneous consideration of waiver and licensure intended in the proposed rule.

The reasons for adding the second sentence in this subpart are discussed in the reasons for the additions to part 9545.2040, subpart 1, above.

The reason for adding the last sentence to this subpart is to clarify the procedure for operators paying and the department collecting the fee approved by the commissioner if a waiver of part or all of the licensing fee is granted. It is necessary and reasonable for the fee originally submitted with the application to be returned to the operator to insure that an amount greater than the fee approved by the comissioner is not deposited into the General Fund. If original fees were deposited, adjustments to deposits and refunds from the department would be required.

These changes are to avoid confusion and for clarification purposes, and are therefore not substantial changes.

CONCLUSIONS

I hereby conclude that:

1. The Commissioner has statutory authority to promulgate these rules.

2. Proper notice of the Department's intent to adopt the proposed above-captioned rules was given as required by law, and all interested persons were afforded an opportunity to submit data and views on the proposed rules.

3. All modifications made to the proposed rule are supported by these findings of fact, and are not substantial changes.

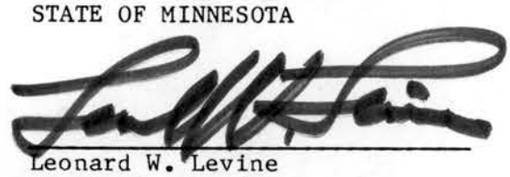
4. The rules, as modified, are necessary and reasonable.

5. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.

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

7. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

STATE OF MINNESOTA



Leonard W. Levine
Commissioner of Human Services

Dated: July 22, 1985

State of Minnesota
Department of Human Services

In the Matter of the Proposed Rules Governing Licensing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040

STATEMENT OF NEED AND REASONABLENESS

Introduction and Background

The proposed Parts 9525.2000 to 9545.2040 establish procedures for the Minnesota Department of Human Services to determine and collect fees from operators of day care and residential facilities and agencies required to be licensed under Minnesota Statutes, Sections 245.781 to 245.812 and 252.28, Subdivision 2, known as the Public Welfare Licensing Act.

Traditionally, licenses issued by the department were free, unlike many other types of licenses. In 1971, the department was given the authority to charge fees to offset the costs of the licensing program. Minnesota Statutes, section 245.811 (1984) (original version at Minnesota Statutes, Section 257.101 (repealed 1976)). On August 22, 1974, the Commissioner issued Policy Bulletins #s 79 and 80, amended by Policy Bulletin #99 on November 15, 1974, which developed a licensing fee schedule for new and renewal licenses for group day care programs and child-caring institutions (and exempting family day care homes and family foster homes from licensing fees). The 1974 fee schedule, together with the establishment of licensing fees during 1975 for group homes, residential programs for chemically dependent, adult mentally ill, and physically handicapped persons, and outpatient programs for chemically dependent persons resulted in the establishment of the current licensing fee schedule:

Current Licensing Fee Schedule

	Fee
Group Day Care Programs (All Day and Half Day):	
Headstart Programs and Parent Cooperatives (Regardless of Size)	$ 5.00
Day Care and Nursery Schools	
6 to 25 Children	10.00
26 to 50 Children	15.00
51 to 100 Children	25.00
101 to 150 Children	50.00
151 or more Children	75.00
Child Caring Institutions (11 or more Children)	25.00
Group Homes	10.00

Current Licensing Fee Schedule
(Continued)

	Fee
Residential Programs for the Chemically Dependent, Adult Mentally Ill and Physically Handicapped:	
Up to 10	$ 25.00
11 to 20 Beds	50.00
21 to 30 Beds	75.00
31 to 40 Beds	100.00
41 to 50 Beds	125.00
51 to More Beds	150.00
Outpatient Programs for the Chemically Dependent	25.00

The above fee schedule has been in effect for approximately ten years and requires revision to reflect changes in law and increases in administrative costs of the licensing program. Since 1975, the number of facilities and agencies licensed and charged fees by the department has grown from about 1,500 to over 2,100 - an increase of about 33 percent. The inflation rate (based on the Consumer Price Index for all urban consumers for the Minneapolis - St. Paul Metropolitan area) accounts for increases in costs of about 104 percent during these years. Consequently, the state budget appropriation to fund the licensing program has increased from about $400,000 in fiscal year 1976 to $848,500 in fiscal year 1985.

Laws of Minnesota 1984, Chapter 654, Article 5, Section 18, amending Minnesota Statutes , section 245.811, gives the department the authority to promulgate a licensing fee rule. In addition, this section removed the $150 maximum on licensing fees, exempted family foster care and family day care homes from fees, and removed the previous exemption for day care or residential facilities or agencies for the mentally retarded.

In response to these changes in the number of facilities, costs, and law, the proposed rule increases the licensing fees charged during the past ten years, and begins charging fees to all facilities and agencies licensed under the Public Welfare Licensing Act which are not exempt from being charged fees. The proposed rule, if adopted, would change the licensing fee schedule as follows:

Proposed changes in

Licensing Fee Schedule

	1975-Present	1986 Fiscal Year
Group Day Care Programs (All Day and Half Day):		
Headstart Programs and Parent Cooperatives (Regardless of Size)	5.00	$12.50 + 2.50 x licensed capacity
Day Care Facilities		
6 to 25 Children	10.00	27.50 - 75.00
26 to 50 Children	15.00	77.50 - 137.50
51 to 100 Children	25.00	140.00 - 262.50
101 to 150 Children	50.00	265.00 - 387.50
151 or more Children	75.00	390.00 + 2.50 x licensed capacity over 151
Child Caring Institutions (11 or more Children)	25.00	80.00 + 5 x licensed capacity over 11
Group Homes	10.00	30.00 - 75.00
Residential Programs for the Chemically Dependent, Adult Mentally Ill and Physically Handicapped:		
Up to 10	25.00	30.00 - 75.00
11 to 20 Beds	50.00	80.00 - 125.00
21 to 30 Beds	75.00	130.00 - 175.00
31 to 40 Beds	100.00	180.00 - 225.00
41 to 50 Beds	125.00	230.00 - 275.00
51 to More Beds	150.00	280.00 + 5 x licensed capacity over 51
Outpatient Programs for the Chemically Dependent	25.00	25.00 + .50 x each person served
Semi-Independent Living Services for Mentally Retarded (SILS)	.00	25.00 + 5 x licensed capacity

Proposed Changes in

Licensing Fee Schedule
(continued)

Developmental Achievement Centers for Mentally Retarded (DACs)	.00	25.00 + 5 x licensed capacity
Residential Programs for Mentally Retarded	.00	same as residential program fees
Child-Caring/Child-Placing Agencies	.00	25.00 + .50 x each finalized adoption and foster home supervised

9545.2000 Definitions

This rule defines words and phrases that have a meaning specific to parts 9545.2000 to 9545.2040, that may have several possible interpretations, or that need exact definitions to be consistent with statute. Terms used in a manner consistent with common use in the licensing or human services fields are not defined unless a definition is necessary to clarify the rule.

Subpart 1. Scope. This provision is needed to clarify that the definitions apply to the entire sequence of parts 9545.2000 to 9545.2040.

Subpart 2. Agency. The term "agency" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to clarify the meaning of a term that may be subject to several possible interpretations. The definition is reasonable in that it is the same definition of "agency" found in Minnesota Statutes, section 245.782, subdivision 4, except that it specifically includes semi-independent living services (SILS) in the definition. It is necessary to include SILS in the definition of "agency" to clarify that SILS are agencies for purposes of these rule parts. It is reasonable to include SILS as agencies since SILS regularly provide needed social or counseling services for persons living in their own homes.

Subpart 3. Base Fee. The term "base fee" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to establish a general term for purposes of the licensing fee formula and to shorten the rule by decreasing the number of words used to refer to a term relating to licensing fees. The definition is reasonable in that it clarifies the meaning of the term in relation to the total licensing fee formula.

Subpart 4. Commissioner. The term "commissioner" is used throughout parts 9545.2000 to 9545.2040 as an abbreviation for the commissioner of the Minnesota Department of Human Services. It is necessary and reasonable to use an abbreviation to delete unnecessary words in a reference frequently

repeated in the rule. Since it would be physically impossible for the commissioner to perform all tasks assigned to the position, it is also necessary and reasonable to permit a person under the commissioner's authorization to perform these tasks.

Subpart 5. Day Care Facility. The term "day care facility" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to clarify the meaning of a term that may be subject to several possible interpretations. The definition is reasonable in that it is the same definition of "day care facility" found in Minnesota Statutes, section 245.782, subdivision 5 (except it does not list examples of day care facilities), except that it specifically includes outpatient treatment programs for chemically dependent persons in the definition. It is necessary to include outpatient treatment programs for chemically dependent persons in the definition of "day care facility" to clarify that these programs are day care facilities for purposes of these rule parts, although they may not be commonly thought of as providing "day care" in the traditional sense of the term. It is reasonable to include these programs as day care facilities since they regularly provide persons with care, rehabilitation, etc., on a regular basis for periods of less than 24 hours per day in a place other than the person's own home.

Subpart 6. Department. The Minnesota Department of Human Services is designated in the Public Welfare Licensing Act through references to the commissioner as having certain responsibilities in carrying out these rule parts. The term "department" is used throughout parts 9545.2000 to 9545.2040 as an abbreviation for the Minnesota Department of Human Services. It is necessary and reasonable to use an abbreviation to delete unnecessary words in a reference frequently repeated in the rule.

Subpart 7. License. The term "license" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to have the meaning clearly specified within the rule so those seeking licensure and applying these rule provisions have a clear and consistent understanding of its meaning. The definition is reasonable in that it is the same definition of "license" found in Minnesota Statutes, section 245.782, subdivision 11 except that it expands the definition to include provisional licenses as defined in Minnesota Statutes, Section 245.782, Subdivision 12. It is necessary and reasonable to include provisional licenses within the meaning of the term "license" for purposes of the rule to assure that all operators authorized to provide specified services for a specified period of time are treated equally regarding the determination and charging of licensing fees. The term "license" is, in effect, an abbreviation for "license or provisional license." It is necessary and reasonable to use an abbreviation to delete unnecessary words in a reference frequently repeated in the rule.

Subpart 8. Licensed Capacity. Minnesota Statutes, section 245.783, subdivision 5 requires every license of a day care or residential facility to prescribe the number of persons who may receive care at any one time. The term "licensed capacity" is used throughout parts 9545.2000 to 9545.2040 to identify the number of persons that may be present at any one time in a day care or residential facility. The definition is necessary to establish a general term which is consistent with statute. The definition is necessary to shorten the rule by decreasing the number of words used to refer to a term of licensure. The definition is reasonable in that it is consistent with the statutory reference.

Subpart 9. Licensed Capacity Fee. The term "licensed capacity fee" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to establish a general term for purposes of the licensing fee formula, to shorten the rule by decreasing the number of words used to refer to a term relating to licensing fees, and to clarify the meaning of the term in relation to the total licensing fee formula. The definition is reasonable in that it describes what a licensed capacity fee is in simple, concise terms in a manner consistent with the formula.

Subpart 10. Licensing Fee. The term "licensing fee" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to give exact meaning to the term for purposes of the rule in a manner consistent with the Public Welfare Licensing Act. The definition is necessary in that it is the subject of the rule and is not defined in the Public Welfare Licensing Act. The definition is reasonable in that it describes what a licensing fee is in simple, concise terms and in a manner consistent with Minnesota Statutes, section 245.811 (statutory authority to promulgate a licensing fee rule).

Subpart 11. Licensing Fee Formula. The term "licensing fee formula" is used in parts 9545.2000 to 9545.2040 as the general term to identify the method used to calculate licensing fees. The definition is necessary to give exact meaning to the term for purposes of the rule. The definition is reasonable in that it clarifies that the licensing fee formula is the mathematical formula or procedure used by the department to determine licensing fees.

Subpart 12. Operator. The term "operator" is used throughout parts 9545.2000 to 9545.2040. The definition is necessary to clarify the meaning of a term that may be subject to several possible interpretations. The definition is reasonable in that it is the same definition of "operator" found in Minnesota Statutes, section 245.782, subdivision 13.

Subpart 13. Regularly on Regular Basis. The term "regular" or "regular basis" is used in part 9545.2000, subparts 2 and 5 (definitions of "agency" and "day care facility"). It is a term that is in common use and may have several meanings. It is necessary to have the meaning clearly specified within the rule so those seeking licensure and applying these rule parts have a clear and consistent understanding of its meaning. The definition is reasonable in that it paraphrases the definition of "regularly" or "on a regular basis" found in Minnesota Statutes, section 245.782, subdivision 9.

Subpart 14. Residential Facility. The term "residential facility" is used throughout parts 9545.2000 to 9545.2040 . The definition is necessary to clarify the meaning of a term that may be subject to several possible interpretations. The definition is reasonable in that it is the same definition of "residential facility" found in Minnesota Statutes, section 245.782, subdivision 6 (except it does not list examples of residential facilities).

Subpart 15. Waiver. The term "waiver" is used throughout part 9545.2040 and is a term that has several possible interpretations. Its use in these rules has a specific meaning. A definition is necessary to clearly establish this meaning. Minnesota Statutes, section 245.811, subdivision 1,

authorizes the commissioner to waive part or all of a licensing fee as a matter of discretion. Subdivision 2 authorizes the commissioner to adopt reasonable rules that may be necessary to carry into effect the provisions of subdivision 1. Therefore, defining a waiver as the permission of the commissioner to depart from the rule parts that establish licensing fees and payment is a reasonable interpretation of the statute. It is also reasonable to define the permission as written permission so that there is evidence of the action.

9545.2010 Applicability

Subpart 1. Applicability. This provision states the applicability of the licensing fee rule. It is necessary to state the applicability of the rule in this subpart to assist the public in determining the relevance of and interest in the rule parts. The provision is reasonable in that it states what is accomplished by the rule and that the rule applies to operators of day care and residential facilities and agencies required to be licensed under the Public Welfare Licensing Act and identifies those facilities or agencies required to be licensed under the Public Welfare Licensing Act and licensed under specific Minnesota Rules parts which are exempt from paying licensing fees. It is necessary to state the exemptions in this subpart to assist the public in determining the relevance of and interest in the rule parts. The provision is reasonable in that Minnesota Statutes, section 245.811, subdivision 1, specifically states that no fee may be charged for a family foster care or family day care home license.

9545.2020 Licensing Fee Formula

Subpart 1. General Formula. It is necessary for the department to establish criteria for the purpose of charging and collecting fees from an operator for the issuance or renewal of a license. Minnesota Statutes, section 16A.128 requires that fixed fees for accounts for which appropriations are made must be reviewed and adjusted so that the total fees nearly equal the sum of the appropriation.

Minnesota Statutes, section 245.811, subdivision 1, authorizes the commissioner to charge a reasonable fee for the issuance or renewal of a license. Subdivision 2 authorizes the commissioner to adopt rules for this purpose. The reasonableness of the formula provisions is described as follows:

The fee formula established in subparts 1 and 2 will result in only a 27 percent recoupment of the state appropriation for the licensing program. Although statute requires total fees to nearly equal the sum of the appropriation, this fee formula has been set intentionally low to lessen the financial burden to facilities and agencies. Current collections amount to only 3 percent of the appropriation and an increase to collect the total of the appropriation through licensing fees would present an unreasonable financial burden for many facilities and agencies.

During the 1984 legislative session, a fiscal note was prepared which developed a licensing fees formula and estimated collections of $212,000 in licensing fees during fiscal year 1986. This original formula called for a base fee of $50 and a licensed capacity fee of $2. Comments received from representatives of each type of facility and agency licensed by the department at an August 30, 1984 meeting resulted in a recommendation that the licensing fee formula be revised to consist of a base fee of $25 with a licensed capacity fee of $4. The basis for charging a lower base fee and a higher licensed capacity fee is to charge a minimal base fee for a license to do business in the state, along with an additional licensed capacity fee related to the size of the facility or agency. This combination better reflects a facility's or agency's ability to pay based on the volume of their business. Under the $25 base/$4 licensed capacity formula, collections would be approximately $179,000; therefore, the licensed capacity fee has been established at $5 to more closely reflect the estimated amount of collections presented to the legislature. A provision to increase the base fee and licensed capacity fee every two years is necessary and reasonable to account for inflation, increased operating costs of the licensing program, and to gradually increase the percentage of state appropriation recouped through the collection of licensing fees. It is necessary to establish a specific period of time during which fees automatically increase to allow for reassessment of the fee schedule, the percentage of state appropriation recouped, and to avoid a provision establishing perpetual fee increases. It is reasonable to provide for fee increases for six years because by 1991 or 1992 the annual fees collected by the department are estimated to equal approximately 50 percent of the state appropriation. While 50 percent may not be "nearly equal to" the state appropriation as required by Minnesota Statutes, Section 16A.128, the department will be collecting substantially more in fees and fee data, and therefore be able to more accurately assess the fee schedule and future collections.

Subpart 2. Exceptions.

A. The exception to the licensing fee criteria identified in subpart 1 is necessary in order to reduce the impact of the increased licensing fee on parents whose children receive care. The lower fee is intended to reduce the direct cost to parents as a result of increased licensing fees. Attempting to contain the cost to parents is a reasonable way to promote the development of affordable day care.

B. Child-caring/child-placing agencies are engaged in planning for, giving direction to, or providing needed service or assistance to children and parents in their own home and placing them in foster care or adoptive homes. Some of these agencies supervise and recommend licensure of foster homes. Since these agencies have no "licensed capacity" it is necessary to use another method to determine their licensing fee. Based on comments received from representatives of each type of facility and agency licensed by the department, the licensing fee for these agencies is based on the volume of service provided, i.e., the number of finalized adoptions and the total number of foster homes under the agency's supervision. The intent of this formula is to charge operators a fee based on their annual case load. It is reasonable to base

the fee on the previous year's case load to avoid requiring an operator to make potentially inaccurate estimates of the next year's case load, which would require adjustments to the fee at the end of the year. Under his formula, newly-formed agencies (with no previous year's case load) will be charged only the base fee. Therefore, the licensing fee will not place an immediate financial burden on new agencies that may have substantial start-up costs and fewer revenues during the first year of operation.

C. Outpatient treatment programs for chemically dependent persons are engaged in the provision of services to clients. They have no "licensed capacity" and therefore it is necessary to use another method to determine their licensing fee. Based on comments received from representatives of each type of facility and agency licensed by the department, the licensing fee for these programs is based on the volume of service provided. The intent of this formula is to charge operators a fee based on their annual case load. It is reasonable to base the fee on the previous year's case load to avoid requiring an operator to make potentially inaccurate estimates of the next year's case load, which would require adjustments to the fee at the end of the year. Under this formula, newly-formed programs (with no previous year's case load) will be charged only the base fee. Therefore, the licensing fee will not place an immediate financial burden on new programs that may have substantial start-up costs or less revenue during the first year of operation.

9545.2030 Licensing Fee Payment

Subpart 1. Payment Procedure. This procedure is unchanged from the current payment system. It is necessary and reasonable to make this fee payable at the time of application in order to recover a portion of the cost of staff time involved in licensing inspections and activities prior to the issuance or renewal of license. This fee is not refundable because the department incurs the cost of licensing staff time and resources whether the facility or agency is issued a license or the application is denied.

Subpart 2. Proration of fees. Certain facilities and agencies are issued licenses for a period of less than one year; others are licensed for as long as two years. Therefore, this provision is necessary to assure that all operators authorized to provide specified services for a specified period of time are treated equally regarding the determination and charging of licensing fees. Under the proration method, a facility or agency licensed for four months will pay one-third of the annual fee under part 9545.2020, a six-month license will cost one-half the annual fee, etc. Facilities or agencies licensed biennially will pay twice the annual fee every two years. The proration provision is reasonable because basing the licensing fee on the period of time for which a facility or agency is permitted to do business in the state is inherently fair and equitable and consistent with the rationale that licensing fees are charged, in part, for a license to do business in the state.

Subpart 3. Noncompliance. This provision is necessary to enforce compliance with subpart 1. It is reasonable for the department not to proceed with the licensing process prior to receipt of the licensing fee because the department incurs the cost of licensing staff time and resources for all application processed, and it ensures that a portion of the cost is recovered.

9545.2040 Waiver

This part is necessary to prevent the imposition of licensing fees from causing financial hardship for an operator or an operator's facility or agency, and to carry into effect the commissioner's discretion authorized in Minnesota Statutes, section 245.811, subdivision 1. This part requires an operator to meet certain conditions in order to be granted a waiver, and specifies the standard used by the department as well as response time for the determination.

Subpart 1. Written request for waiver. This provision is necessary so that there is evidence of an operator's request for a waiver. The prescribed method of requesting a waiver is reasonable because it clearly establishes a simple, uniform procedure.

Item A. This provision is necessary and reasonable to clarify and ensure that the department and operator understand the subject of the request.

Item B. This provision is necessary and reasonable to ensure that the department and operator have a clear understanding of the financial nature of the request.

Items C. and D. These provisions are necessary and reasonable to provide a basis for granting or denying a waiver. It is necessary and reasonable to require the reasons and documentation of the reasons to facilitate the waiver determination process in a manner consistent with the standard for granting a waiver identified in subpart 2.

Subpart 2. Standard for granting waiver. This provision is necessary to inform an operator of the standard or basis upon which the commissioner may grant a waiver. This section clarifies the standard. The provision is reasonable because financial hardship (i.e., unusually high overhead costs or unusually low revenues) is a reasonable standard for granting a waiver to a rule imposing financial costs or fees.

Subpart 3. Notice of decision. This provision is necessary to inform an operator whether the request for waiver is granted or denied. The provision is reasonable because it facilitates the waiver determination process by requiring department action on a request within 30 days. It is necessary and reasonable to require an explanation of the reason or reasons for denial of a waiver to assure that a denial was not made arbitrarily, and that all of the information submitted by the operator was given full consideration in the determination.

Conclusion

The foregoing statements and information demonstrate the need for and the reasonableness of proposed Parts 9545.2000 to 9545.2040.

DATE: MARCH 21, 1985

LEONARD W. LEVINE
Commissioner

BM/B

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT A PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on this date, July 22, 1985, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on April 8, 1985, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order adopting the rule is available upon request from Barry Stern, Department of Human Services, Rules Unit, Fourth Floor, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 297-1490.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or specific parts or subparts of the rule. Your comments must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MInnesota 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

LEONARD W. LEVINE, Commissioner
Department of Human Services

Dated: July 22, 1985

Becky Eikmeier

Oppose because

(1) Operating under inadequate Rule 3.

therefore should not have to pay fees.

(2) Should have regular inspections by examiners so licensing has some meaning / enforcement

(3) Too large a jump in fees.

(4) Want public hearing

David Munz

Opposed to rule because

(1) Necessary for DHS to adopt rule applicable to DACs before imposing licensing fees.

(2) Significant departure from previous years' policy – requires public hearing.

JVW explained Atty Gen role limited to review as to legality

7/30 Ken Lahdi. DAC Director, has already submitted written comment

Opposes rule because

(1) No time for his agency to budget for fee

(2) There is no licensing rule which properly applies to DACs, therefore DACs should not be assessed fees.

(3) It makes no sense for DACs which are largely supported by tax dollars from state to be paying out those same tax dollars to the state

(4) DACs have been "inspected" by licensing consultants from DHS. This has been helpful Now they are to be inspected by "examiners" who may not offer the same kind of assistance

Petterson

Has been operating DACs for Adult Mentally Retarded for 15 yrs. These rules are irrelevant to his facilities but nevertheless fees will apply. No objection to relevant rules. It makes no sense for govt. to give him grants for care of MR and then take it away in fees.

JVW told him AG looks only at legality. If DHS has authority to assess fees, AG has to approve. We don't question policy.

He has submitted written comment also.

JVW told him his comments if directed towards legality would be considered in AG review

Hubeety.

Involved with operation of day care for MR adults for some 12 years

Would like to have licensing rules for adult Day care facility. Feels rules under which currently operating are directed to child care facilities and therefore are not applicable to adult care. Therefore, fee rules should not be applicable either.

Objection to paying licensing fee w/o appropriate licensing standard.

Jerry Mueller

represents 86 DACs (Development Achievement Centers) - which cater to Adult clients

Through attorney has submitted written comment previously to DHS.

(1) DACs are currently licensed under old Rule 3 which has been in effect since 68.

Old Rule 3 related to child care centers thus has no relevancy to DACs.

Thus DACs would be charged for something not in existence.

He Recommends talking to Bill Fink, DHS Director of Licensing and Ed Skarmulis in DHS MR Division. "They are aware there is a legal problem with this Rule"

Legal problems: (?)

There is no legal licensing for DACs (because of no applicable Rule)

Federal funding may be in jeopardy

LCRAR directed DHS in 1982 to promulgate a DAC licensing Rule and DHS has not done so.

Bonita Hammel.

7/29 4.05. tried calling. N.A.

Arkema.

Wants public hearing.
JVW advised her of provisions of 16.128 subd 2a - no public hearing may be held.

will really crimp budget.
JVW advised ~~suggested~~ AG can only address legality not policy or effect.

Don't have adequate licensing rule so why pay licensing fee?
JVW advised if agency has adequate authority to impose fees, AG cannot question policy

Pat Casto.

Wants a public hearing.
JVW explained APA + 16A.128, subd 2a.

see written comment submitted in 30-day comment period for substance of objections to rule.

June Monson . Kandiyohi County DAC.

7/30 JVW returned her call. She was not in office — message left

Don Benson.

Rice County Day Activities Center.

called in opposition to Rule.

(1) There is no licensing rule applicable to DACs so why should DACs pay a license fee.

(2) Rule is to become effective on too short notice - presents budgeting problems.

(3) Rule warrants a public hearing

MnDACA

Griggs Midway Building S-277
1821 University Avenue
St. Paul, Minnesota 55104
612-647-9200

Jerry Mueller
Executive Director

July 25, 1985

Commisioner Leonard Levine
Department of Human Services
Centennial Office Building
4th Floor
St. Paul, Minnesota 55155

Dear Commissioner Levine;

This letter is being written on behalf of the Developmental Achievement Centers in Minnesota to express our serious concern and disappointment over the Department's decision to pursue the promulgation of the rules governing fees for day care and residential facilities. (Minnesota rules, parts 9545.2000 to 9545.2040.) The notice of submission of rule adopted without a public hearing was submitted to the Attorney General's office on July 22, 1985.

We are opposed to the license fee payments because, among other reasons, the Department of Human Services has not promulgated an adequate licensing rule for DAC's.

Enclosed is a copy of a memorandum from the Legislative Commission to Review Administrative Rules dated August 12, 1982 addressing this issue in more detail and requesting the department to promulgate a DAC licensing rule.

We are currently working with Dr. Skarnulis, Director, Mental Retardation Division to insure that this rule is promulgated and are confident in his ability to carry this through.

However, the fact remains that this may not be completed for several months.

We strongly urge you to reconsider your intent to promulgate the licensing fee rule.

Additionally, we request that there be a public hearing regarding this proposed rule.

Thank you for your consideration.

Sincerely,

Jerry Mueller
Executive Director, MnDACA

cc: Attorney General of the State of Minnesota
Dr. Ed Skarnulis

LCRAR

Legislative Commission to
Review Administrative Rules

Senator Timothy J. Penny
Chairman

Representative Paul McCarron
Vice-Chairman

Kathleen P. Burek
Executive Director

August 12, 1982

Mr. Arthur Noot
Commissioner, Department of Public Welfare
4th Floor, Centennial Building
St. Paul, Minnesota 55155

Dear Commissioner Noot:

I am writing in regard to action taken by the Legislative Commission to Review Administrative Rules(LCRAR) pertaining to the Department of Public Welfare's rules relating to the operation and licensing of developmental achievement centers(DAC's). After our July 7 hearing on this subject, Commission staff was asked to meet with representatives of your department and MinnDACA to clarify the issues before the Commission. The staff's report was presented to the Commission on August 10, 1982. The Commission acted affirmatively on the staff recommendations as amended. A copy of the amended staff recommendations are attached, and a copy of the staff report is enclosed to provide you with the background for the Commission's action.

You will note that your department is requested to promulgate LZMCAR 2.038, the DAC licensing rule, at the earliest possible date. Your staff indicated to the Commission that they were prepared to begin rulemaking proceedings within two months. We look forward to seeing a notice of public hearing in the State Register within that time period. Your department is also requested to keep Commission staff informed of your progress.

Several other recommendations for amending Rules 31, 160 and 185 must be delayed until the Supreme Court has rendered its opinion in the Swenson case. Your department is requested to begin rulemaking proceedings on these issues as soon as possible after the Supreme Court decision. You are requested to delay action on amending Rules 160 and 185 until the Legislature has had an opportunity to review the Court's decision and to provide direction to the Department in this matter.

There appears to be some confusion over the status of LCRAR staff reports. Unlike a court opinion, or a hearing examiner's findings, the discussion of issues and conclusions found in an LCRAR staff report is prepared for the benefit of Commission members, in support of the staff's recommendations. The conclusions are not legally binding on your agency. The agency is only bound by the motions adopted by the Commission pursuant to M.S. 3.965, namely. the amended staff recommendations attached.

AMENDED STAFF RECOMMENDATIONS
adopted by LCRAR 8/10/82

II. Impact of CSSA on Rule 31 - p. 6

3. The LCRAR should not suspend Rule 31.

4. The LCRAR should request the Department of Public Welfare to amend 12MCAR 2.031 to reflect the creation in the CSSA. The Department should keep Commission staff informed of its progress on a monthly basis.

III. Permissible Demissions Under Rule 31.F.1.a. - p. 12

5. The LCRAR should request the Department of Public Welfare to revise 12MCAR2.031.F.1.a. after the Supreme Court decision to clearly state the permissible and prohibited grounds for refusing admission, and for termination.

6. The LCRAR should also request the Department of Public Welfare to amend 12MCAR 2.185 and 2.160 after the Supreme Court decision to clarify the status of the individual program and service plans, on whom they are binding, at whose initiative they may be modified and for what reasons.

IV. Relationship of Rule 31 and Rule 3. - p. 14

3. The LCRAR should request the Department of Public Welfare to promulgate 12MCAR 2.038(DAC Licenses) at the earliest possible date. The Department should consider including a section on permissible demissions in order to provide timely resolution of that question. The Department should further consider eliminating the distinction between program and licensing rules by amending the revised Rule 31 into Rule 38 once the latter becomes effective. Alternatively, it should be made clear in Rule 31 that violations can be enforced by the revocation of the Rule 38 license. The Department should keep Commission staff informed of their progress on a monthly basis.

V. Establishing a Minimum Level of Service to Which Mentally Retarded Persons Are Entitled - p. 17

3. The LCRAR should request the policy committees of the House and Senate to review the Supreme Court decision on the minimum level of service to be provided to mentally retarded persons and provide guidance to the DPW as to changes in rules necessary to reflect either the court decision or statutory changes if any. The Department should initiate rulemaking proceedings at the earliest possible date thereafter, and keep commission staff informed of its progress on a monthly basis.

We appreciate the problems faced by your department in being challenged on several separate, if related, issues. Our review and our actions on this matter reflect a desire on our part to assist the department in adopting "adequate and proper rules," and to remove potential grounds for future challenges before the courts.

We appreciate the cooperation of your staff, and look forward to continued cooperation as the revision of these rules moves forward.

Sincerely,

Senator Tim Penny
Chairman, LCRAR

TP:lsh
encls.

RECEIVED
JUL 31 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Hubbard County Developmental Achievement Center
Box 86, Park Rapids, MN 56470

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

Dear Sirs:

This letter is to request that a public hearing be held on the matter of the proposed adoption of Department of Human Services Rules Governing Fees for DAy Care and Residential Facilities and Agencies, Minnesota Rules, Pars 9545.2000 to 9545.2040.

The Board of Directors of the Hubbard County Developmental Achievement Center opposes the institution of a licensing fee for developmental achievement centers for the following reasons:

1. Such fees are inappropriate for services funded primarily through taxes.

2. DACs do not really have an adequate licensing rule; they are lumped in with child day-care providers. A licensing fee would be charged for services which are not really being properly provided.

3. Licensing fees will significantly raise the costs of DAC services. The increased costs will be passed on to the taxpayers.

We feel that these, and other issues, warrent a public hearing on this matter.

Very truly yours,

Ed Ranson
Director

cc: Leonard Levine

RECEIVED
JUL 31 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

NORTHEAST LEARNING CENTER, INC.
2675 E. Highway 36
North St. Paul, Minn. 55109
Phone: 777-5358

July 29, 1985

Attorney General of Minnesota
The Office of the Attorney General
204 Administration Building
St. Paul, Minnesota 55155

Mr. Attorney General,

This letter is written in opposition to the proposed adoption of Department of Human Services rules governing fees for Day Care and Residential Facilities and Agencies, Minn.

The Northeast Learning Center is a Developmental Achievement Center and this rule would begin by costing us $615.00 just to be licensed. Our budget is from Federal, State and County tax dollars. The Department of Human Services is composed of monies from the same source. This rule would double charge the taxpayer!

Additionally, Developmental Achievement Centers are still waiting for an adequate licensing rule. Our licensing rule was designed for normal children. We serve children with developmental delays, mentally retarded or other disabilitied adults and senior citizens.

This is my second letter to you. There is sufficient concern to either not promulgate this legislation or at the least have a public hearing.

Sincerely,

Marian Dean

Marian H. Dean
Executive Director

cc: Commissioner Len Levine
Department of Human Services
Centennial Office Building
St. Paul, Minnesota 55155

cc: Sheri Watters
Legislative Chairperson, NELC Board

Hope Developmental Achievement Center

Pipestone and Lincoln Counties, Inc.

Ruthton, Minnesota 56170

Dear Sir:

I am writing in regard to the licensing fee rule for day care and residential facilities.

I oppose the rule because:

1) DAC's do not have an adequate licensing rule.
2) there are sufficient concerns regarding the implementation of the licensing fee to warrant a public hearing.
3) there is not time to budget for licensing increases.

Because of these reasons I request that a public hearing be held regarding this matter.

Sincerely,

Catherine Nelson

RECEIVED
JUL 31 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

LYNNE KREHBIEL
ATTORNEY AT LAW
430 NORWEST MIDLAND BANK BUILDING
MINNEAPOLIS, MINNESOTA 55401
612-339-1660

OF COUNSEL
NANCY ZALUSKY BERG

OF COUNSEL
KAREN IVES

July 30, 1985

Office of the Attorney General
204 Administration Bldg.
50 Sherburne Avenue
Saint Paul, MN 55155

Dear Sir:

I am commenting in response to the proposed Department of Human Services Rules Governing Fees for Day Care and Residential Facilities and Agencies, Parts 9545.2000 to 9545.2040, on behalf of the Minnesota Developmental Achievement Centers, Inc. (MnDACA). As you know, MnDACA is a non-profit organization of Developmental Achievement Centers which provide day care to persons who have mental or physical disabilities.

MnDACA has some concerns about the fee fule. First of all, it is not clear that the rule governs the DAC's. Since 1968, the DAC's have been governed by Department of Public Welfare Rule No. 3, the fule which includes group day care of pre-school and school age children . Since 1982, in a letter to Commissioner Noot from LCRAR, MnDACA and other organizations have been attempting, fruitlessly, to get rules concerning licensing of DAC's. Clearly Rule 3 is insufficient. Further, the relationship between Rule 3 and the proposed fee rules is unclear.

If it is the intent of the Department of Human Services to charge DAC's a fee pursuant to the terms of the proposed rule, there are other difficulties. Notice to the DAC's has been insufficient for budget purposes. If the rule is to become effective January 1, 1986, the present time is too late for the DAC's to include a licensing fee item in their budgets.

Further, if such a licensing fee is implemented, the burden on the taxpayer is multiplied. The DAC's already exist by using tax dollars; to impose a second tier licensing fee (tax) is to pass a heavier burden on to the taxpayers of the State of Minnesota.

Finally, because of the widespread implications of the proposed licensing fee rule and because of the large numbers of people and organizations which it will affect, MnDACA adds its voice to those requesting a public hearing on the matter.

If MnDACA can be of additional help in this matter, please do not hesitate to contact me. Please note a change of office address: IDS Tower, T5/623, Minneapolis, MN 55474 (342-8530).

Very truly yours,

Lynne Krehbiel

cc: Mr. Leonard W. Levine
Mr. Jerry Mueller

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

DAKOTA

Assisting the community and people challenged by disabilities to live and work together.

Board of Directors

Barbara Kilbourne / Chairman
Phil Purcelli / Vice Chairman
Terry Rust / Secretary/Treasurer

Leslie Bifulk Arnold
Thomas Hunt
Kathleen Jefferson
John Kemp
Stanley Krinsky
Joann O'Leary-Searles
Dick Rupert
Marv Wieland
Allen Peterson
(ex-officio)

Community Resource Committee

Duane Harves
Senator Howard Knutson
Kenneth LaCroix
Gerald Leimer
William Newberg
Rev. Robert Nygaard
Galen Pate
Palmer Peterson
John Sonsteng
Jane Van Roekel, M.D.
Gwen Weaver
Ray Wheeler
Albert Woodward
David Zemke

Executive Director

George A. Moudry, M.S.W., M.A.

Dakota, Inc. is a private, non-profit corporation

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Sir:

Dakota, Inc. requests that a public hearing be held regarding the recently issued Notice of Submission of Rule Adopted Without a Public Hearing to the Attorney General regarding LICENSING FEES.

Dakota, Inc. opposes the fee rule because it does not allow an adequate licensing rule for DACs. We would also like to suggest that there are sufficient concerns regarding the implementation of the licensing fee to warrant a public hearing.

Sincerely,

DAKOTA, INC.

Judy Lysne

Judy Lysne
Associate Executive Director

JL/~~jb~~

cc: Commissioner L. Levine
Department of Human Services

Jerry Mueller
MnDACA

Dakota, Inc.
750 South Plaza Drive, Suite 323
Mendota Heights, MN 55120
612/454-2732

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Chippewa - Yellow Medicine
DEVELOPMENTAL ACHIEVEMENT CENTER, Inc.
Fairgrounds
MONTEVIDEO, MINN. 56265
Phone (612) 269-6134

JULY 26, 1985

THE OFFICE OF THE ATTORNEY GENERAL
204 ADMINISTRATION BUILDING
50 SHERBURN AVENUE
ST. PAUL, MINNESOTA 55155

Dear Sirs:

The Chippewa Yellow Medicine D.A.C. is opposed to the adoption of the Licensing Fees rule without a public hearing. At this time there is not an adequate licensing rule for D.A.C.'s. We are being licensed under old rule 3 which is meant for day care for children. All the Clients in our program are adults over the age of 21. Many of the requirements in old rule 3 do not apply to this age person.

The Chippewa Yellow Medicine D.A.C. organization feels there are sufficient concerns regarding the implementation of the licensing fee to warrent a public hearing.

Thank You.

Sincerely,

terry D. Nielsen

Terry D. Nielsen, Director.

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Swan Lake Developmental Achievement Center

SERVING PEOPLE WHO ARE DEVELOPMENTALLY DISABLED

515 - 11TH ST., P.O. BOX 153

WINDOM, MINNESOTA 56101

July 26, 1985

PHONE 507/831-1511

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN. 55155

Dear Mr. Attorney General:

I received the notice of the proposed adoption of Department of Human Services Rules governing licensing fees for Day Care and residential facilities and agencies, MN Rules parts 9545.2000 to 9545.2040. I am opposed to the adoption of the rules from the standpoint of the Developmental Achievement Centers for the following reasons:

1.) Developmental Achievement Centers are not licensed according to a functional rule and have not been for many years. The prospects of a functional rule for DAC's in the near future is bleak. I have personally been involved with two different licensing rule task forces over the past twelve years and we are no closer to promulgation now than we have been at any time during that period. I do not feel that we should be paying a fee for a non-functional license.

2.) This appears to be another attempt by the State to generate State revenue at the expense of the County, from CSSA, and the Federal from MA.

3.) Since State operated institutions will not be charged the fee, I see this rule as another hindering factor to the plan to move people from state institutions to community based facilities operated by the private sector. This licensing fee will simply be another burden on the private sector if we desire to provide more service to more people.

In light of these issues, I would request that a public hearing be held on this matter.

Thank you for the consideration of the issues that I have presented here.

Sincerely,

Don Pankratz, Director

DP/pa

CC: Commissioner Len Levine
Department of Human Services
Centennial Office Building
St. Paul, MN. 55155

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SWIFT COUNTY DEVELOPMENTAL ACHIEVEMENT CENTER

Rte. 2 - Box 4C
Benson, Minn. 56215
Phone 612—843-4201

July 26, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, Minnesota 55155

Dear Sirs:

Enclosed is a letter I sent to Mr. Barry Stern on April 24th regarding the proposed charges for licensing. My concerns over this rule have not changed, especially since the State has been mandated by law to come up with rules regarding our licensure and as yet we have not seen even a proposed law.

For this reason and for those included in the attached letter I would like to consider this a request for a public hearing regarding this matter.

Thank you for this consideration.

Sincerely,

Sylvia Loy

Sylvia Loy, Director

cc: Jack Langan, Swift Co. Comm.
Ronald Laycock, Dir. Swift Co. Welfare
Jerry Mueller, Ex. Dir. MinnDACA

SWIFT COUNTY DEVELOPMENTAL
ACHIEVEMENT CENTER
Rte. 2 - Box 4C
Benson, Minn. 56215
Phone 612—843-4201

April 24, 1985

Mr. Barry Stern
Rulemaking Unit
Minnesota Dept. of Human Services
4th Floor Centennial Office Building
658 Cedar
St. Paul, Minnesota 55155

Re: Licensing fees

Dear Mr. Stern,

I am writing in opposition to your proposed charges for licensing of Developmental Achievement Centers. My objections are based on the following reasons:

1. The State would be in essence charging a fee for licensing their own facilities.
2. The State has as yet not come up with a licensing rule written for D.A.C.'s. This rule has been in the process for at least 15 years.
3. If a fee were to be charged, we should not have to pay for our licensed capacity when it is not full.
4. With the proposed rule our fee for 1985 would be $180.00. In July of 1991 it would have increased 70% to $303.00.
5. No reasons have been given for charging the fees nor has any mention been made of what fee monies would be used for.

The letter I received and the rule states that ," the Department shall not take any action on an operators application until the license fee is paid." It appears to me that the Department is more interested in collecting fees than in licensing.

I trust that more consideration will be given to this rule and that comments from facilities needing licensing will be considered.

Thank you for consideration of this matter. I would be happy to discuss it with you if you write or call.

Sincerely,

Sylvia Loy, Director

cc: Jack Langan, Swift Co. Commissioner
Sen. Charlie Berg
Rep. Charles Brown
Rep. Glen Anderson

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

McLeod County Developmental Achievement Center

Non-Profit Organization

Norma Syverson, Director

311 FAIRLAWN AVE. W.
BOX 600
WINSTED, MINNESOTA 55395

PHONE 612-485-4191

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Ave.
St. Paul, Mn. 55155

Dear Sir,

Our Center opposes the licensing fee rule which would charge the DAC for our license.

First, we do not have a licensing rule that is adequate. Rule 3 does nothing for programs that do not have children in the program. Therefore, the dollars paid for a license, in my opinion, would pay for nothing in return.

Secondly, the fee structure that is set up would come within the present budget year. We need to have information such as this prior to the next budgeting year. We have not appropriated this in our 1985 budget.

Thirdly, where is the reference for this rule?

There needs to be a public hearing on this issue, so we are therefore requesting that a hearing be held.

Thank you for your consideration.

Norma Syverson

Norma Syverson
Executive Director

RECEIVED
JUL 30 1985
ATTORNEY GEN
ADMINISTRATIVE AGENCIES

Redwood County Developmental Achievement Center

P. O. BOX 3 - 515 WEST BRIDGE, REDWOOD FALLS, MINNESOTA 56283
Telephone [507] 637-3503

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, Minnesota 55155

Dear Sir:

I am writing to express my negative reaction to the proposed liscensing fee rule for Developmental Achievement Centers. My objections are:

1. The amount of the fee. It is out of proportion to all other liscensing fees that we have to pay to other Departments, such as Department of Health. With the cap on DAC per diem increases, this significant amount of money will come directly out of participant services. (I see in this revision that Day Care Centers were given some relief on fee size. We are subject to all of the same problems they are such as increase in insurance fees.)

2. Fee based on liscense capacity as opposed to number of clients served. We are liscensed for more clients than we actually serve at this time.

3. I question the ethics of charging the taxpayer a large fee to liscense a program when they are footing the bill for the program in the first place.

4. DAC's do not have an appropriate and meaningful liscensing rule. Our liscensing process is of no value to the DAC or to the clients we serve at this time. I do feel the Department has been negligent in allowing this situation to continue; and until it is rectified I strongly protest having to pay any fee at all for a liscense.

Please take another look at the appropriateness of charging a large fee to providers for liscensing. This cost will add to the problems we now face with other rapidly escalating costs - such as insurance and utilities - and the lack of ability for the costs of our services to reflect these increases. The client will have to bear the brunt of this squeeze.

Sincerely

Mary Jo Boots

(Mrs.) Mary Jo Boots,
Executive Director

cc: Len Levine

Jerry Mueller

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

MARTIN COUNTY
DEVELOPMENTAL ACHIEVEMENT CENTER

Box 467 Phone (507) 764-3741

SHERBURN, MINNESOTA 56171

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

To: Attorney General
State of Minnesota

From: Sue Eisenmenger SE
Executive Director

Re: Adoption of Department of Human Services Rules Governing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545-2000 to 9545-2040

I am writing to express my concern about the adoption of the above mentioned rules without a hearing. Although a cover letter for the rule from the Department of Human Services states that agencies were notified of the proposed rules, this agency received no such notification and only recently received a copy of the rule from the State D.A.C. Association. It appears that the rule will have a direct effect upon our organization and will incur expenses that have not been planned.

In addition, I question the suitability of paying a fee for licensing with a rule (Old DPW Rule 3) which is extremely inadequate and inappropriate for the day training and habilitation services such as we offer and other DACs offer.

I would request that a public hearing be held to receive concerns and questions regarding the adoption and implementation of this rule.

Thank you.

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Courage Center

3915 Golden Valley Road • Golden Valley, Minnesota 55422 • (612) 588-0811

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, Minnesota 55155

I write this letter in response to a recent notice issued by the State Department of Human Services regarding licensing fees to be charged to DAC's and other service providers.

We must oppose this proposed fee rule for a number of reasons. The DAC's presently do not have an adequate licensing rule; it would seem inappropriate to charge a fee for a service that is not helpful or closely regulated. A licensing fee would perhaps be more acceptable if the State Department provided a more comprehensive rule (proposed rule #38 would hopefully meet this need), or if additional services other than the annual review were provided, i.e. consulation services.

As it now stands, there are sufficient concerns regarding the implementation of the licensing fee to warrant a Public Hearing.

I hope you will take into consideration these issues before proposing to adopt such a rule.

Sincerely,

Debra C Williamson

Debra C. Williamson
Program Supervisor, DAC
Courage Center

DW/sg

cc: Commissioner Len Levine
Department of Human Services
Centennial Office Building
St. Paul, Minnesota 55155

Courage Center is a nonprofit organization providing medical and vocational rehabilitation, recreation, sports, camping, educational programs and residential services to people with physical disabilities and speech, hearing and vision impairments.

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

BIG STONE COUNTY
DEVELOPMENTAL ACHIEVEMENT CENTER, Inc.
Box 321
Clinton, Minnesota 56225

July 29, 1985

Office Att. Gen.
204 Administration Bldg.
50 Sherburne Ave.
St. Paul, MN 55155

Dear Sirs:

I am the director at the DAC in Clinton, Minnesota. I am writing to voice my opposition to the proposed rule regarding the charging of licensing fees to DAC's. I operate on a very tight budget in my facility and for the most part it would be difficult for me to all of a sudden come up with this extra money.

Also I have a few unanswered questions concerning this proposal. What type of licensing service would we be buying that we do not already have? It confuses me that we are suddenly getting charged for licensing when it is mandatory for our facility and it has automatically been provided in the past. How was the fee determined? I feel it is a little unfair to pay according to licensed capacity. This could run into alot of money for some DAC's - paying for clients that aren't even enrolled in the program.

Our DAC is currently running a strictly adult program and we are being licensed under Rule 3 which is designed for a preschool population. I feels it is rather unfair to have to pay a licensing fee, especially for an outdated rule.

I request that a public hearing be held concerning this matter.

Sincerely,
Deanna Stattelman
Deanna Stattelman, Director

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Faribault County
Developmental Achievement Center

Phone 507/878-3101
Frost, Minnesota 56033

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

Re: Rules governing fees for Day Care and Residential Facilities and Agencies

Dear Sirs:

Rules Governing Fees for Day Care and Residential Facilities and Agencies is being adopted without public hearing and is to be effective July 1, 1985. The Faribault County Developmental Achievement Center opposes the adoption of this rule for the following reasons:

1. We did not have this item budgeted in 1985 and cannot budget for this until 1986.
2. We do not have an adequate licensing rule.
3. We are collecting from one taxing source to pay another.

We strongly urge that this rule go to public hearing prior to becoming effective.

Very Truly Yours,

Stanley K. Lahti
Director

SKL/mh

cc Commissioner Len Levine

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

NORTH METRO Developmental Achievement Center

7400 Laurel Avenue • Golden Valley, Minnesota 55426 • (612) 541-1844

July 29, 1985

TO: The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

FROM: Pat Finley Casto
Executive Director

RE: Proposed Adoption of DHS Rules Governing Licensing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040

I am writing on behalf of North Metro Developmental Achievement Center to express concerns related to this proposed rule. I am currently opposed to adoption of said rule based on the following:

1. I am confused by the "pressing need" for fees when we have not previously been so assessed. i.e., Why at all?

2. Why now? The timing for implementation is discourteous to say the least. e.g., July 1 of our current fiscal year when we have not budgeted for such expense and Medical Assistance CPI limit an annual increase in our budget precludes writing it in future budgets without "cutting" more direct service to our clients.

3. What is revenue obtained via fees to be used for by DHS? What service are we buying? Seems quite expensive for amount of service currently provided by or available from "Licensing Examiner".

4. DAC's do not have an adequate licensing rule, i.e., Old Rule 3 related to Child Welfare for programs whose primary clientele have been and are adults. Rule has been in revision "limbo" for over ten years now.

In summary, I feel there are sufficient concerns regarding the implementation of the proposed licensing fee to warrant a public hearing.

Enclosure: Copy of my earlier 5/6/85 correspondence regarding this issue to DHS Rulemaking Unit

cc: Commissioner Len Levine
Department of Human Services
Centennial Office Building
St. Paul, MN 55155

NORTH METRO Developmental Achievement Center

7400 Laurel Avenue • Golden Valley, Minnesota 55426 • (612) 541-1844

May 6, 1985

TO: Minnesota Department of Human Services
Attention: Barry Stern, Rulemaking Unit
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

FROM: Pat Findley Casto
Executive Director

RE: Proposed Adoption of DHS Rules Governing Licensing Fees For Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040

I am writing on behalf of North Metro Developmental Achievement Center to express concerns related to this proposed rule.

1. I am confused by the "pressing need" for fees when we have not previously been so assessed. i.e., Why at all?
2. Why now? The timing for implementation is discourteous to say the least. e.g., July 1 of our current fiscal year when we have not budgeted for such expense.
3. What is revenue obtained via fees to be used for by DHS?
4. I believe that current licensing process takes much more of vendors time than it does the examiners. i.e., compiling data, postage, etc.

Renville County Developmental Achievement Center

FAIRGROUNDS
BIRD ISLAND, MN 55310

BOX 115
PHONE: 365-3380

July 29, 1985

The Office of the Attorney General
214 Administration Building
50 Sherburn Ave.
St. Paul, Mn. 55155

Dear Sir,

The Renville County DAC opposes the licensing fee. Some of the reasons are as follows:

Rule 3 that we have for DAC's is not adequate for our Adult Program. It would be adequate for Preschool only.

How would the dollars we spend be of benefit to the adult population? It should be pertaining to the four domains and competitive work in the community.

This comes at a very bad time of the budget year for us. Our budget is for January through December. We have no dollars set aside for the licensing fee.

I feel as though the tax dollars to be spent on programs should not be used to pay for licensing that we are requred to meet. We cannot operate without the licensing.

So, our Center would oppose the licensing fee and would request a public hearing to be held.

Ludie Mammen
Executive Director
Renville County DAC

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

UNITED DEVELOPMENTAL ACHIEVEMENT CENTER OF DULUTH, INC.

500 EAST TENTH STREET
DULUTH, MINNESOTA 55805

218/722-5867 General Office
218/722-0209 Director
218/722-2763 Social Services

1985
OFFICERS
DENNIS TELEGA
Chairman
TIMOTHY MOWBRAY
Vice Chairman
CHARLES VOSS
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MARY BELL
Secretary

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Gary Doty
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Neal Hessen
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Martha Moyer
Dr. John Newstrom
Sam Solon
Dan Svendsen
Steve Vekich

Elaine Benson, Ex-officio
Creighton J. Koski, Ex-officio
Helmi Lammi, Ex-officio
Ann Niedringhaus, Ex-officio

ADMINISTRATION
Executive Director
Creighton J. Koski

Program Director
Clyde H. Holmes

Administrative Assistant
Joan Larson Berglund

Facility & Transportation Supervisor
Ludwig Petrich

Social Service Coordinator
Robert Cigalio

Community Relations Coordinator
Selina Braden

Work Development Coordinator
Roberta Lenz

29 July 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
Saint Paul, Minnesota 55155

Dear Sir or Madam:

On behalf of the United Developmental Achievement Center of Duluth, we, the undersigned members of the administrative team, wish to express our opposition to the proposed licensing fee and request that a public hearing be held.

First, this fee would mean increased costs at a time when monies available to our funding sources are decreasing.

Second, this fee would mean increased expenditures from tax money and a mere transfer of tax monies from one public fund to another with the resulting bureaucratic costs.

Third, Developmental Achievement Centers do not currently have an adequate licensing rule which would justify such a fee.

We feel that these concerns are sufficient to warrant a public hearing.

Thank you,

Joan Berglund
Administrative Assistant

William Kleczka
Program Services Director

Kenneth Jackson
Social Services Coordinator

cc Commissioner Len Levine

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JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

ST. DAVID'S SCHOOL
13000 St. David Road
Minnetonka, Minnesota
55343

Telephone 935-3336

Board of Directors
St. David's Nursery School

Father Ronald Bauer
Dr. Jim Block
Launa Tucker
Pearl Wilson
Mary Witkop

Board of Directors
Developmental Achievement Center

Karen Abbott
Sue Astin, Secretary
Father Ronald Bauer
Cheri Cohen
Herb Dahl
Dr. Dale Dobrin
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Avis Kruger
Sue Merrimam
Lou Owen
Kathy Patton, Chairperson
Alan Quaal
Thomas D. Wright, Jr.

Executive Director

Eric Stevens

Program Coordinators, Special Education and Respite Care

Marilyn Bloom
Carolyn Olson

Program Coordinator, Diagnostic and Therapy Services

Marty Hesselroth

Program Coordinators, Nursery School/Daycare

Cynthia Furnas
Jan Foss

July 29, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

Re: Proposed DAC Licensing Fee Rule

We are opposed to increased licensing fees, and believe that the new rules are inappropriate for the following reasons:

1. DAC's are already publicly funded. Drastically increased fees for licensing will only mean that we will need more government funding (from the counties) to pay another arm of government (DHS). What point is there in taxing funded programs?

2. DAC's have been without an adequate licensing rule for years -- hence it makes little sense to now impose a stiff licensing fee.

These new fees will only harm the services that they are designed to support. We believe a public hearing is warranted.

Sincerely,

Eric Stevens
Executive Director

ES/sg

cc: Commissioner Len Levine

RECEIVED
JUL 30 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SCOTT COUNTY
HUMAN SERVICES
DEVELOPMENTAL ACHIEVEMENT CENTER
20560 LANGFORD WAY
JORDAN, MINNESOTA 55352 (612) 492-6222

Office of the Attorney General
204 Administration Building
50 Sherburn Ave.
St. Paul, MN. 55155

Attorney General;

I'm writing on behalf of our D.A.C. and the other Five (5) D.A.C.s who met in a regional meeting on Wednesday, July 24th. We are very concerned with the setting of a licensing fee and now an indication that there is the intent to probigate this immediately. How can this be done when we indeed have no rule that appropriately sets our guidelines? Now we are to pay a fee for someone to look through our files, look at the building, and maybe spend time in the programs to tell us alls O.K. or that there are light bulbs out.

How are D.A.C.s to have money to pay for such fees without early notification so some kind of allowances can be made in the budget? Do we collect from the client and family to pay a license fee or must we us already limited dollars that come from taxes to pay the state for a license?

There is a great deal of information involved in this whole issue whcih should be brought to Public Hearing. Please consider this matter carefully.

Sincerely,

Bernadine Nolte

Bernadine Nolte
Director,Scott County D.A.C.
Reg.11 W Representative, MNDACA State Board

cc. Com.L.Levine

RECEIVED
JUL 26 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Goodhue County Developmental Activity Center

240 Mississippi Ave. Red Wing, MN 55066 Phone 612/388-1101

RECEIVED
JUL 26 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

July 25, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: Proposed Adoption of Department of Human Services Rules Governing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040

I would like to enter my concerns regarding the legality of the proposed rule pertaining to Developmental Achievement Centers. DACs are licensed under a rule promulgated by the Department of Public Welfare in 1968. The Department of Human Services was requested by the Legislative Commission to Review Administrative Rules in August of 1982 to promulgate a DAC licensing rule at the earliest possible date. The department has yet to promulgate a licensing rule.

The Department of Human Services in a memo pertaining to licensing of community based waivered services has stated that Developmental Achievement Centers are licensed under the 1968 version of Rule 3. Rule 3 is a Child Welfare Rule for Group Day Care of Preschool and School Age children. I question whether this rule is a legally binding rule since it has been revised through public hearing several times.

Developmental Achievement Centers provide training and habilitation services to adult participants funded through medical assistance. How can it be legal to license us under an antique group day care rule for children?

I also question whether it is legal to charge DACs a licensing fee when, technically, there is no rule to license DACs.

I would appreciate a summary of your legal review.

Sincerely,

Nancy Gurney
Director

NG/hw
cc: Department of Human Services
Governor Perpich

FLOODWOOD DEVELOPMENTAL ACHIEVEMENT CENTER

P. O. BOX 347

FLOODWOOD, MINNESOTA 55736

Providing Opportunity and Achievement

Telephone 218/476-2230

July 26, 1985

Office of the Attorney General
204 Administration Bldg.
50 Sherburn Avenue
St. Paul, MN. 55155

RE: The Proposed Adoption of Department of Human Services Rule Governing Fees for Day Care and Residential Facilities and Agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040.

Dear Sir:

I would like to request that a public hearing be held concerning adoption of the above mentioned rule. I feel that there are sufficient concerns regarding the implementation of the fee to warrant this. Beyond that, increased costs of operating a program, shifts to vocational programming, and lack of an adequate licensing rule for DAC's are other issues that should be addressed at a public hearing.

Sincerely,

Rae Rosemore

Rae Rosemore
Financial Director

RR;pr
cc: Commissioner Len Levine

RECEIVED
JUL 29 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

pine county developmental achievement center

July 26, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

To whom it may concern:

Please consider the following comments in your review of Rules Relating to Licensing Fees for Day Care and Residential Facilities and Agencies. I oppose the adoption of the Rules on the following basis:

1. Even though our facility is small, the additional costs would impact total budget. Insurance increases of 150% have caused significant impact on our budget this year and will continue in the coming year. The total effect will make it more difficult to provide the appropriate services to clients.

2. A fee might be appropriate if a service were rendered by the Department of Human Services in return. DACs do not have an adequate licensing rule. Consultants are inconsistant in enforcing Rule 3. A consistant, flexible Licensing Rule should be in place before fees are imposed!

3. The effect of a licensing fee impacts many facilities and many people who are receiving services. It would seem appropriate to allow these people to be heard in a public hearing prior to promulgation of the rule.

Sincerely,

Jeannette Kester

Jeannette Kester
Executive Director

JK:ml

Copy to Commissioner Len Levine

P.O. Box 126, Sandstone, Minnesota 55072 - (612) 245-2246

North Suburban
Developmental Achievement Center, Inc.

1393 Garden Avenue
St. Paul, Minnesota 55113
(612) 647-1006

July 26, 1985

** Serving the Northwest Suburbs of Ramsey County*

Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St.Paul, MN 55155

Re: Licensing Fee for
Developmental Achievement Centers

To Whom it May Concern:

I am writing in opposition to the proposed rule charging licensing fees to developmental achievement centers. My position is for several reasons and they are:

1. DACs are presently licensed under Rule 3 which is a daycare rule and has very limited applicability.

2. The proposed fee is taxpayer money once already collected by the State of Minnesota, and

3. The proposed fee presents a distinct financial hardship for DACs whom are underfunded and the amount of money to be collected by the state department will be inconsequential.

These concerns warrant greater public input than the proposed means of implementing the rule. I ask for your consideration in this matter and thank you for the attention.

Sincerely,

Phillip Saari

Phillip C. Saari
Executive Director

PCS/mt

cc: DHS Commissioner, Len Levine

RECEIVED
JUL 29 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SIBLEY COUNTY DEVELOPMENTAL ACHIEVEMENT CENTER, INC.
ARLINGTON, MINNESOTA 55307

Box 916
700 Marion Drive

Phone 612/964-5726

July 27, 1985

Dear Sir:

I strongly urge you to call a Public Hearing regarding Mn. Rules Part 9545.2000 to 9545.2040, setting licensing fees for DAC's in Mn. as well as other providers.

I oppose this move, and without a public hearing, will have no opportunity to express my concerns publicly prior to it being adopted!

Also, what is ironical is the effort to charge DACs a licensing fee to be licensed under an inappropriate rule (Rule 3 - for daycare providers). There are other concerns I wish to comment on; therefore, again, I urge you to hold a public hearing.

Regards,
Karen K. Wells Archer

cc: Len Levine

RECEIVED
JUL 29 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Community
Involvement
Programs

ADMINISTRATIVE:
2217 Nicollet Avenue South
Minneapolis, Minnesota 55404
(612) 871-8644

July 26, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, Minnesota 55155

Dear Sir,

It has come to my attention that you intend to pass a rule governing Licensing Fees for day care and residential facilities without public hearing.

I would like to request that you hold public hearings regarding this matter. Developmental Achievement Centers (DAC) are licensed by DHS and would be required to pay a licensing fee according to the proposed rule. Considering that the rule under which DAC's are licensed is more than 15 years old and totally inadequate as a measure of even minimum program quality it would seem that charging a fee for licensing would be absurd.

On August 12th, 1982 the Legislative Commission to Review Administrative Rules requested that DHS promulgate rule 12 MCAR 2.038 to replace the "old rule 3". This has not yet happened. At the same time DHS is proposing passing a Licensing Fee rule without public hearing. I would like to have an opportunity to express my viewpoints about such poor management practices at a public hearing.

As a tax payer I would also like to have an opportunity to go on record against the practice of charging fees and taxes to programs which are funded with taxes. Such practices merely serves to provide excess paperwork and

obfuscate where the public funds are actually being spent.

Sincerely,

Alex T. Petterson
Executive Director

ATP:jc
cc: Commissioner Len Levine, 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 FEES FOR DAY CARE AND RESIDENTIAL FACILITIES AND AGENCIES, MINNESOTA RULES, PARTS 9545.2000 TO 9545.2040

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT A PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on this date, July 22, 1985, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on April 8, 1985, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order adopting the rule is available upon request from Barry Stern, Department of Human Services, Rules Unit, Fourth Floor, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 297-1490.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or specific parts or subparts of the rule. Your comments must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MInnesota 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

LEONARD W. LEVINE, Commissioner
Department of Human Services

Dated: July 22, 1985

RECEIVED
JUL 29 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

July 30, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

Dear Sirs,

Please accept this letter in response to the proposed adoption of Department of Human Service rules governing fees for day care and residential facilities and agencies, Minnesota Rules, Parts 9545.2000 to 9545.2040.

I would like to register my opposition to the proposed licensing fees based on the lack of an appropriate licensing rule for DAC's. It seems improper to push a licensing fee rule through without hearing for facilities who still do not have an adequate licensing rule in place.

There would certainly seem to be sufficient concerns to warrant a public hearing regarding this rule.

Respectfully,

Richard Simonson, Director

RS/nr

east polk county
developmental achievement center, inc.
box 178 fosston, minnesota 56542

RECEIVED
AUG 01 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mankato Rehabilitation Center, Inc.

15 Map Drive, P.O. Box 328 Mankato, MN 56001
Phone (507) 345-4507
Arne J. Berg, Executive Director

July 30, 1985

Branch Services

Brown-Nicollet Industries
21st North St. & Broadway
P.O. Box 894
New Ulm, MN 56073
Phone (507) 354-2758

Tri-County Industries
703 Cory Lane
P.O. Box 489
Fairmont, MN 56031
Phone (507) 238-1279

Commissioner Len Levine
Department of Human Services
Centennial Office Building
St. Paul MN 55155

RE: Minnesota Rules Parts 9545.2000 to 9545.2040

Commissioner Levine:

I send this letter to oppose the Department of Human Services action of adopting the above mentioned rule without a public hearing.

The Department of Human Services has been licensing Developmental Achievement Centers for many years under DHS Rule 3 - a rule which has little bearing to what the purpose of developmental achievement services are today. The Minnesota Legislature provides directives for the Department to promulgate a rule governing such services, but has not promulgated one to date.

Charging fees for licensing Developmental Achievement Center services is a significant departure from past policy and warrants a public hearing prior to adopting the rule.

I request a public hearing be held prior to the adoption of such a rule. Thank you for your consideration in this matter.

Sincerely,

David A. Munz

David A. Munz
Supervisor
Adult Developmental Achievement Center Program

DAM:nd

cc: Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul MN 55155

Jerry Miller, Executive Director
MnDACA

serving handicapped children and adults since 1968

DAC

Marshall County Developmental Achievement Center Inc.

228 East Johnson Avenue
Warren, Minnesota 56762
Phone 218/745-4401

July 30, 1985

The Office of the Attorney General
204 Administration Building
50 Sherburn Avenue
St. Paul, MN 55155

Dear Sir:

I am writing regarding the Notice of Submission of Rule Adopted without Public Hearing regarding Licensing Fees.

I am opposed to the fee rule. DAC's currently do not have an adequate licensing rule and yet fees are going to be changed.

The short notice of this fee schedule creates budgeting difficulties. Budgets are already tightly regulated for most DAC's and it is difficult to find money for new items.

I believe that there are sufficient concerns regarding the implementation of the licensing fee to warrant a public hearing. I would to request that a public hearing be held on this rule.

Sincerely,

Pat Thorson

Pat Thorson
Director

PT/lg
CC: Commissioner Len Levine
Department of Human Services
Centennial Office Building
St. Paul, MN 55155

RECEIVED
AUG 01 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : Human Services

PHONE : 297-1490

DATE : July 22, 1985

TO : Judith Wehrwein
A.G./Admin.
204 Administration Bldg.

FROM : Barry Stern BS
DHS Rulemaking
4th Fl - Centennial Bldg.

SUBJECT : Licensing Fee Rule - Minnesota Rules, parts 9545.2000 to 9545.2040
Request for review and approval

Attached for your review and approval under Minnesota Statutes, section 14.26 and Minnesota Rules, part 2000.0400 is the above-entitled rule.

PLEASE NOTE that no public written comments were received by the agency following the Notice of Solicitation of Outside Opinion published in the State Register on July 23, 1984, and that no public hearing was held in accordance with Minnesota Statutes, section 16A.128, subdivision 2a.