

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1350 Docket No. 05, 0009, 0884

DATE RECEIVED 2/23/87
REVIEW DATE 3/4/87
DUE DATE 3/9/87

APPROVED 3/9/87
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING ↘
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
5/13/86 Date published in State Register
Yes Comments

~~Petition for Adoption of a Rule~~

~~Board's Authorizing~~ Resolution

✓ Proposed rule
Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
245.802 subd 1 Statutory Authority 256.01 subd 4(3) 256E.05 " "
~~May~~ NO Small business statement
Yes Expenditure of public money statement
Yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
10/1/86 Date 30/25 days before adoption

✓ Publication in State Register
10/6/86 Date 30/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting
2/23/87 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
Julie Harris Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT

ATTORNEY GENERAL

TO:

JULIE HARRIS
Special Assistant
Attorney General

DATE: 3/19/87

FROM:

MIKE MILES
Assistant Attorney General

PHONE: 6-6555

SUBJECT:

Special Assistant
Attorney General

In the Matter of the Adopted Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

The above-referenced rule has been approved as to its legality by the Attorney General on March 9, 1987.

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

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

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

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

MJC:nah

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Department of Human Services

Adopted Permanent Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

Rules as Adopted

9555.5105 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9555.5105 to 9555.6265 the following terms have the meanings given them.

Subp. 2. **Adult.** "Adult" means a person at least 18 years of age.

Subp. 3. **Adult foster care.** "Adult foster care" means the provision of food, lodging, protection, supervision, and household services to a functionally impaired adult in a residence and may also include the provision of personal care, household and living skills assistance or training, medication assistance under part 9555.6225, subpart 8, and assistance safeguarding cash resources under part 9555.6265.

Subp. 4. **Adult foster care services.** "Adult foster care services" means those community social services in parts 9550.0010 to 9550.0092 that are provided to residents or prospective residents of adult foster homes.

Subp. 5. **Adult foster home.** "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides ~~up-to-four-functionally-impaired-residents with~~ 24-hour foster care to no more than four functionally impaired residents.

Subp. 6. **Applicant.** "Applicant" means the operator seeking a license to operate an adult foster home.

Subp. 7. **Building official.** "Building official" means a person appointed in accordance with Minnesota Statutes, section 16B.65, to administer the state building code or the building official's authorized representative.

Subp. 8. **Caregiver.** "Caregiver" means an adult who meets the qualifications in part 9555.6125, subpart 4, and gives care

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to a resident in an adult foster home.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

Subp. 10. **County board.** "County board" means the county board of commissioners in each county. When a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board.

Subp. 11. **County of financial responsibility.** "County of financial responsibility" means the county responsible for paying for foster care services for a resident under Minnesota Statutes, section 256E.08, subdivision 7.

Subp. 12. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 13. **Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.011, to administer and enforce the Minnesota Uniform Fire Code or the fire marshal's authorized representative.

Subp. 14. **Functionally impaired.** "Functionally impaired" means a person who has:

A. substantial difficulty carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working; or

B. a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

Subp. 15. **Health authority.** "Health authority" means the designated representative of the local board of health organized under Minnesota Statutes, chapter 145, to enforce public health codes.

Subp. 16. **Household member.** "Household member" means any person living in the adult foster home more than 30 consecutive calendar days in any 12-month period who is not a resident.

Subp. 17. **Household services.** "Household services" means activities taught to or performed by a caregiver for a resident

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such as cooking, cleaning, budgeting, and other household care or maintenance tasks.

Subp. 18. **Individual service plan.** "Individual service plan" means the written plan agreed upon and signed by the county of financial responsibility and the resident or resident's legal representative for the provision of social services under part 9550.0090. For persons with mental retardation or a related condition, it means the plan agreed upon and signed under part 9525.0075.

Subp. 19. **Individual resident placement agreement.** "Individual resident placement agreement" means the written document specifying the terms for provision of foster care to an adult that is developed under part 9555.5705 for persons receiving services under part 9525.0075 or 9550.0090 or under part 9555.6167 for persons not receiving community social services or services for persons with mental retardation or a related condition. The individual resident placement agreement must:

A. describe the reason for placement;

B. describe what the operator must provide in the areas of lodging, food, protection, household or living skills training or assistance, personal care assistance, assistance safeguarding cash resources, transportation, residence accessibility modifications, medication assistance, and supervision;

C. describe who is financially responsible for the payment of the foster care provided by the operator;

D. describe any other community, health and social services that the operator will assist in providing;

E. coordinate with the contents of the individual habilitation plan developed under parts 9525.0015 to 9525.0165 for persons with mental retardation or a related condition; and

F. coordinate with the individual service plan developed under part 9525.0075 or 9550.0090.

Subp. 20. **Legal representative.** "Legal representative" means a person appointed by the court as a guardian or

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conservator of an adult under Minnesota Statutes, sections 525.539 to 525.6198 or chapter 252A.

Subp. 21. **License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period in accordance with parts 9555.6105 to 9555.6265 and Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2. License includes a provisional license issued to an operator who is temporarily unable to comply with the requirements for a license.

Subp. 22. **Licensed capacity.** "Licensed capacity" means the maximum number of functionally impaired adults who may receive foster care in the adult foster home at any one time.

Subp. 23. **Living skills assistance.** "Living skills assistance" means activities taught or performed to assist the resident to use services, transportation, recreation, and social opportunities available in the community.

Subp. 24. **Local agency.** "Local agency" means the county or multi-county social service agency governed by the county board or multi-county human services board of the county in which the adult foster home is located. <u>If the local agency is also providing foster care services to the resident, then the local agency is also the service agency defined in subpart 34.</u>

Subp. 25. **Medication.** "Medication" means a prescription substance taken internally, applied externally, or injected to prevent or treat a condition or disease, heal, or relieve pain.

Subp. 26. **Minnesota Uniform Fire Code.** "Minnesota Uniform Fire Code" means those codes and regulations adopted by the fire marshal under Minnesota Statutes, section 299F.011 and parts 7510.0200 to 7510.3000.

Subp. 27. **Operator.** "Operator" means the individual, partnership, corporation, or governmental unit licensed by the department and legally responsible for the operation of an adult foster home.

Subp. 28. **Personal care.** "Personal care" means assistance by a caregiver with or teaching of skills related to activities of daily living such as eating, grooming, bathing, and

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laundering clothes.

Subp. 29. **Protection.** "Protection" means compliance with the Vulnerable Adults Act.

Subp. 30. **Related.** "Related" means any of the following relationships by marriage, blood, or adoption: spouse, parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, grandchild, child, niece, and nephew.

Subp. 31. **Residence.** "Residence" means the single dwelling unit in which foster care is provided with complete, independent living facilities for one or more persons. As defined in section 405 of the Minnesota State Building Code, the residence has permanent provisions for living, sleeping, cooking, eating, and sanitation.

Subp. 32. **Resident.** "Resident" means a functionally impaired adult residing in an adult foster home and receiving foster care.

Subp. 33. **Roomer.** "Roomer" means a household member who is not related to the ~~provider~~ operator and is not a resident or caregiver.

Subp. 34. **Service agency.** "Service agency" means the public or private agency designated by the county of financial responsibility with the responsibility to provide the foster care services in parts 9555.5105 to 9555.5705.

Subp. 35. **Social worker.** "Social worker" means a person designated by the local agency or service agency of the county of financial responsibility with credentials meeting the minimum requirements under the Minnesota Merit System classification for social worker or a county personnel system equivalent under Minnesota Statutes, section 375.56-71; Laws of Minnesota 1965, chapter 855; and Laws of Minnesota 1974, chapter 435, article 3, who is responsible for coordinating a prospective resident's initial assessment and placement in part 9555.5605 the development of the individual resident placement agreement for those persons with an individual service plan.

Subp. 36. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of

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administration under chapter 1300 and Minnesota Statutes, section 16B.59.

Subp. 37. **Supervision.** "Supervision" means:

A. oversight by a caregiver as specified in the individual resident placement agreement and daily awareness of a resident's needs and activities; and

B. the presence of a caregiver in the residence during normal sleeping hours.

Subp. 38. **Variance.** "Variance" means written permission by the commissioner for an applicant or operator to depart from the provisions of parts 9555.6105 to 9555.6265 if equivalent alternative measures are provided to ensure the health, safety, and rights of a resident.

Subp. 39. **Vulnerable Adults Act.** "Vulnerable Adults Act" means Minnesota Statutes, section 626.557.

9555.5205 APPLICABILITY.

Parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to residents or prospective residents of adult foster homes by the county board.

9555.5305 PURPOSE.

The purpose of parts 9555.5105 to 9555.5705 is to ensure that a resident or prospective resident of an adult foster home receives an assessment of need for adult foster care, is notified about adult foster care services that are available, and consultation, assistance, and information are provided to applicants or operators of adult foster homes.

9555.5405 FOSTER HOME DEVELOPMENT.

The local agency shall implement an annual adult foster home recruitment plan specifying a method and timetable for recruiting operators to meet the county's adult foster care needs if adult foster care services to residents or prospective residents of adult foster homes are specified by the county board in the community social services plan developed under parts 9550.0010 to 9550.0092.

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9555.5415 LICENSING ASSISTANCE.

Subpart 1. **Assistance.** The local agency shall tell persons seeking information about adult foster home licensure of the standards in parts 9555.6105 to 9555.6265. The local agency shall offer consultation, assistance, and information in accordance with parts 9555.6105 to 9555.6265. The local agency shall:

A. supply the applicant with the department application form, a copy of parts 9555.5105 and 9555.6105 to 9555.6265, and the department forms needed to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265;

B. stamp and date a signed and completed department application form on the date of receipt;

C. accept and process applications for licensure and recommend licensure or negative licensing actions to the department;

D. conduct the inspection of the residence and study of the applicant in accordance with parts 9555.5105 and 9555.6105 to 9555.6265; and

E. notify the local zoning administrator in the jurisdiction in which the residence is located at least 30 days prior to the initial issuance date of a license. The date the local zoning administrator was notified must be noted on the application form.

Subp. 2. **Unlicensed residences.** When the local agency has reasonable cause to believe a residence required to be licensed under parts 9555.6105 to 9555.6265 is operating without a license, the local agency must verify the home's license status following the procedures in items A and B.

A. The local agency shall verify the home's license status within five working days. If the operator is not licensed to operate an adult foster home, the local agency shall contact the person providing adult foster care in the residence and tell the person of the licensing requirements in Minnesota Statutes, sections 245.781 to 245.812 and parts 9555.5105 and

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9555.6105 to 9555.6265.

B. If no application is made to obtain a license within 30 days after the operator is told of the licensure requirements, the city or county attorney for the local agency with jurisdiction to bring misdemeanor charges shall be notified by the local agency. The operator of a residence required to be licensed under parts 9555.5105 and 9555.6105 to 9555.6265 that is operating without a license is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.

C. A complaint concerning violations of parts 9555.6105 to 9555.6265 shall be investigated by the local agency within 14 working days of receipt, except complaints concerning abuse or neglect, which shall be investigated in accordance with parts 9555.7100 to 9555.7700. Substantiated complaints about an operator licensed under parts 9555.5105 and 9555.6105 to 9555.6265 shall be recorded in the record on the residence in part ~~9555.6155~~ 9555.5515.

9555.5505 LOCAL AGENCY ORIENTATION AND TRAINING ROLE.

Subpart 1. **Local agency role.** The local agency shall ensure that:

A. the operator and caregivers comply with the orientation and training requirements in part 9555.6185; and

B. the orientation and training in part 9555.6185 is available within the county or within 50 miles of the adult foster home at times convenient to foster home operators.

Subp. 2. **Orientation.** The local agency shall provide three hours of orientation to a foster home operator and caregivers prior to the placement of the first resident following initial licensure. The orientation training must include training on requirements of the Vulnerable Adults Act contained in Minnesota Statutes, section 626.557; parts 9555.8000 to 9555.8500; and the general provisions of parts 9555.5105, and 9555.6105 to 9555.6265.

Subp. 3. **Information.** The local agency shall identify

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sources of training that meet the standards in part 9555.6185 and notify the operator of a licensed residence in the county at least once a year of the training opportunities available.

9555.5515 RECORD ON THE RESIDENCE.

A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:

A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1;

B. the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C. the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;

D. any written inspection reports from a health authority or building official;

E. the commissioner's initial and any renewal licensing studies and inspections;

F. any comments of the operator or provider about the licensing studies and inspections;

G. written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H. a list of residents currently in the residence;

I. a list of residents who have been in the residence in the past five years;

J. documentation of any variances to parts 9555.6105 to 9555.6265;

K. arrest, conviction, and criminal history records on the operator, caregivers, and household members;

L. if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125,

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subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M. a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N. a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O. a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

9555.5605 ASSESSMENT.

Subpart 1. **Assessment.** A social worker from the local agency or service agency of the county of financial responsibility shall ensure that a person seeking adult foster home placement has an assessment to determine the person's need for adult foster care.

A. An adult who has or may have a diagnosis of mental retardation or a related condition shall be assessed under part 9525.0065.

B. An adult requesting adult foster care services under parts 9550.0010 to 9550.0092 shall be assessed under item D and part 9550.0090.

C. An assessment performed under Minnesota Statutes, section 256B.091 shall satisfy the provisions of item D.

D. An assessment coordinated by a social worker and review of any information gathered from professionals must be made of the adult's:

(1) ability to manage activities of daily living;

(2) physical health, including impairments of mobility, sight, hearing, and speech;

(3) intellectual functioning and mental health, including impairments of judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life;

(4) need for supervision;

(5) need for protection;

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(6) need for assistance in safeguarding cash resources;

(7) need for medication assistance;

(8) employability and vocational skills;

(9) need for family and community involvement; and

(10) need for community, social, or health services.

Subp. 2. **Mobility access assessment.** Before placement, or after placement if the local agency has reasonable cause to believe a mobility access, seizure, or disability problem has developed, the social worker shall determine, in consultation with the prospective resident and the resident's representative and any other person knowledgeable about the resident's needs, whether accessibility aides or modifications to the residence are needed. The need for accessibility aides or modifications to the residence shall be determined for persons with regular seizures or physical disabilities using an accessibility checklist approved by the commissioner in consultation with persons knowledgeable about the accessibility and mobility needs of the resident and persons knowledgeable about accessibility modifications to residential occupancies. A person confined to a wheelchair must be housed on a level with an exit directly to grade.

Subp. 3. **Placement standards.** A person shall be appropriate for adult foster home placement if the person:

A. is an adult;

B. is functionally impaired;

C. has requested, or the adult's legal representative has requested, foster care placement;

D. has demonstrated a need for foster care based on the assessment in subpart 1;

E. does not require continuous medical care or treatment in a facility licensed for acute care under chapter 4640; and

F. has been approved for placement under parts

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9525.0015 to 9525.0145, if the adult has mental retardation or a related condition.

Subp. 4. **Placement and consumer choice.** A person who is appropriate for adult foster home placement, and the person's legal representative must be allowed to choose among between the homes that the social worker determines would meet the person's foster care needs.

Subp. 5. **Matching.** When referring the adult seeking foster care to a licensed adult foster home, the social worker shall match the licensing study information and the capacity of the adult foster home program developed by the operator under part 9555.6235 with the assessed needs of the functionally impaired adult determined under part 9555.5605, subparts 1 and 2.

Subp. 6. **Preplacement visit.** The social worker shall arrange for the functionally impaired adult to visit the prospective adult foster home before placement, except in cases of emergency placement or placement for less than 30 consecutive days. Before placement, the following shall be discussed with the operator:

A. the needs of the functionally impaired adult as determined by the assessment in part 9555.5605, subparts 1 and 2;

B. the foster care that must be provided by the operator to the adult seeking placement;

C. the adult's need for additional community health and social services and the operator's responsibility in assisting with provision of or access to those services; and

D. the financial arrangements to pay for the adult foster care.

9555.5705 PROVISION OF ADULT FOSTER CARE SERVICES TO RESIDENTS OF ADULT FOSTER HOMES.

Subpart 1. **Adult foster care service.** When the county board elects to provide adult foster care services under parts 9550.0010 to 9550.0092, the county board shall offer adult foster care services to the residents or prospective residents of an adult foster home. Adult foster care services may be

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provided directly by the county of financial responsibility, or by the service agency under a written agreement with the county of financial responsibility, or by another agency under contract to the county of financial responsibility.

Subp. 2. **Development of individual resident placement agreement.** If the resident or prospective resident requests and receives adult foster care services, then the service agency shall develop, and the resident, resident's legal representative, and the operator shall agree on and sign an individual resident placement agreement as defined in part 9555.5105, subpart 19. The agreement must be signed within 30 days of placement and be coordinated with the adult's individual service plan as defined in part 9555.5105, subpart 18. The service agency shall give a copy of the individual service plan to the operator. If the resident is appropriate for adult foster home placement and does not require adult foster care services under parts 9550.0010 to 9550.0092, the individual resident placement agreement shall be developed by the operator, resident, and resident's legal representative under part 9555.6167.

Subp. 3. **Placement review for residents with an individual service plan.** The service agency assigned to a resident in an adult foster home with an individual service plan must:

A. visit the resident and operator within 30 days of placement to confirm the appropriateness of the placement;

B. provide consultation services to the operator in meeting the resident's assessed needs;

C. provide a telephone number where caregivers and the resident or resident's legal representative may call for emergency social service assistance 24 hours a day; and

D. assist in developing the individual abuse prevention plan for the resident under parts 9555.7100 to 9555.7700.

9555.6105 APPLICABILITY AND PURPOSE.

Parts 9555.5105 and 9555.6105 to 9555.6265, as authorized

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by Minnesota Statutes, sections 245.781 to 245.812, govern the licensure of the operator of an adult foster home. The purpose of parts 9555.5105 and 9555.6105 to 9555.6265 is to establish procedures and standards for licensure and operation of an adult foster home so minimum levels of care are provided and the health, safety, and rights of residents are assured.

9555.6115 LICENSE APPLICATION PROCESS.

A license to operate an adult foster home must be obtained from the department under items A to E.

A. Application for a license must be made on the application form issued by the department and must be made in the county where the adult foster home is located.

B. The applicant must be the individual or the authorized representative of the partnership, corporation, or government unit that will be the operator of the adult foster home.

C. Separate licenses are required for residences located at separate addresses, even if the residences are to be operated by the same operator.

D. An application for licensure is complete when the commissioner determines that the department forms and documentation needed for licensure, the inspection, zoning, evaluation, and investigative reports, documentation and information required to verify compliance with parts 9555.5105 and 9555.6105 to 9555.6265 have been submitted by the applicant. The commissioner shall stamp and date a signed and completed department application form on the date of receipt.

9555.6125 LICENSING STUDY.

Subpart 1. Access to residence. The applicant shall give the commissioner access to the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265. Access shall include the residence to be occupied as an adult foster home; any adjoining land or buildings owned or operated by the applicant or operator in conjunction with the provision of adult foster care and designated for use by a resident;

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noninterference in interviewing caregivers, roomers, or household members; and the right to view and photocopy the records and documents specified in parts 9555.6235 and 9555.6245. The commissioner shall have access to the residence at any time during the period of licensure to determine whether the operator is in compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

Subp. 2. **Inspections.** The residence must be inspected by a fire marshal within 12 months before initial licensure to verify that the residence is a dwelling unit within a residential occupancy as defined in section 9.117 of the Minnesota Uniform Fire Code and that the residence complies with the fire safety standards for that residential occupancy contained in the Minnesota Uniform Fire Code. A home safety checklist, approved by the commissioner, must be completed by the operator and the commissioner before licensure each year a fire marshal inspection is not made. The residence shall be inspected according to the licensed capacity specified on the initial application form. If the commissioner has reasonable cause to believe that a potentially hazardous condition may be present or the licensed capacity is increased to four residents, the commissioner shall request a subsequent inspection and written report by a fire marshal to verify the absence of hazard. Any condition cited by a fire marshal, building official, or health authority as hazardous or creating an immediate danger of fire or threat to health and safety must be corrected before a license is issued or renewed by the department.

Subp. 3. **Study of applicant.** A study of the applicant shall be conducted by the commissioner under items A to D.

A. The applicant shall provide the commissioner with a completed, signed form as required by Minnesota Statutes, section 245.783, subdivision 3, for the disclosure of arrest, conviction, and criminal history records for each caregiver, household member over the age of ~~12~~ 13, and each owner, partner, board member, and employee who will be involved in the operation

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of the adult foster home. The form must disclose the person's full name and all previous or additional names, date of birth, the specific nature of information to be disclosed, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attorney, and sheriff or chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record. If the person has not resided in the state for five years, the form shall also be sent to a national criminal history repository. In the case of a household member who is nine years of age but under the age of 14, the commissioner shall ascertain from the local court of jurisdiction whether the juvenile has been adjudicated as a delinquent for any of the acts specified in subpart 4, items D and E.

B. The applicant who is an individual shall provide social history information to the commissioner about each ~~caregiver and~~ household member. "Social history information" means information on education; employment; financial condition; military service; marital history; strengths and weaknesses of household relationships; mental illness; chemical dependency; hospitalizations; involuntary terminations of parental rights; the use of mental retardation services; felony, gross misdemeanor or misdemeanor convictions, arrests or admissions; and substantiated reports of neglect or abuse.

C. If the applicant is an authorized representative of a partnership, corporation, or governmental unit, the applicant shall make available and maintain the following information:

(1) the names and addresses of the owners and board members;

(2) the name, address, and physical health report of the employees who are involved in the operation of the adult foster home;

(3) an organization chart;

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(4) personnel policies;

(5) the personnel records of persons in subitem (2) and verification that they comply with the qualifications in subpart 4;

(6) job descriptions of persons in subitem (2); and

(7) the staffing pattern to be used in the adult foster home.

D. The applicant shall provide the commissioner with the names of three persons not related to the applicant who can supply information about the applicant's ability to operate an adult foster home.

Subp. 4. **Qualifications.** Operators, caregivers, and household members must meet the qualifications in items A to H.

A. Operators and caregivers must be adults.

B. Household members and caregivers must be free of reportable communicable disease as named in parts 4605.7000 to 4605.7800. With the exception of caregivers providing less than 30 days of care per year, the household member and caregiver must provide the commissioner with a physician's statement showing the absence of reportable communicable disease and any physical condition that would prevent the caregiver from being able to provide foster care to a resident. The physician's report must be based on an examination of the individual within the 12 months before application for licensure. Caregivers shall provide the commissioner with a physician's report at least once every five years after initial licensure.

C. Operators, caregivers, and household members must agree to disclose the arrest, conviction, and criminal history information specified in subpart 3.

D. Operators, caregivers, and household members must not have a conviction of, <u>adjudication of delinquency for,</u> have admitted to, or there be substantial evidence <u>as determined by the local agency or department</u> indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557 <u>or assault as defined in Minnesota Statutes,</u>

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sections 609.221 to 609.235, 609.322 to 609.342, 609.343, 609.344, or 609.345.

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction of, adjudication of delinquency for, or admission of any crime listed in Minnesota Statutes, sections 152.09, 152.096, 152.097, 609.185 to 609.345, 609.365, 609.377, 609.378, 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, 609.561 to 609.563, 609.582, 609.59, 609.625, 609.63, 609.687, 609.71, 609.713, 609.821, 617.23, 617.246, other than those listed in item D, or the same or similar crime listed in the laws of another state or of the United States or of another country.

F. Caregivers must not have had parental rights terminated under Minnesota Statutes, section 260.221, paragraph (b), within the past five years.

G. Operators and caregivers must not have a diagnosis of mental retardation or a related condition and be receiving services under parts 9525.0015 to 9525.0145.

H. Caregivers and household members must not have a mental illness or condition as diagnosed by a psychiatrist or licensed psychologist that has documented behaviors that the commissioner determines would jeopardize the health, rights, or safety of residents. Past history of a mental illness or condition may be considered. "Mental illness" means ~~the inability to interpret reality realistically and the impaired functioning in~~ an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), Ninth Revision (1980), code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III), Third Edition (1980), Axes I, II, or III, and that seriously limits a person's functional capacities relative to primary aspects of daily living~~,~~ such as personal relations, living arrangements, work, and recreation. These publications are

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incorporated by reference and are not subject to frequent change. They are available in the State Law Library, Ford Building, 117 University Avenue, St. Paul, Minnesota 55155.

I. Caregivers and household members must not abuse prescription drugs or use controlled substances as named in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the health, rights, or safety of residents.

Subp. 5. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term of the adult foster home, a physical, mental health, chemical dependency, or criminal history evaluation of the operator, caregiver, or household member if the commissioner has reasonable cause to believe that any of the qualifications or requirements in items A to I have not been met or that the operator or any caregiver cannot care for a resident. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation.

Subp. 6. **Zoning.** At least 30 days before the initial license issuance date, the commissioner shall notify the local zoning administrator in the jurisdiction where the residence is located of the license application.

Subp. 7. **Period of licensure; nontransfer.** A license shall be issued by the commissioner for up to one year when the applicant complies with parts 9555.6105 to 9555.6265. A license is not transferable to another operator or residence.

Subp. 8. Provisional license. An applicant for initial licensure may be granted a provisional license by the commissioner for up to one year if the laws and rules cannot be complied with immediately, and if the deviations from parts 9555.6105 to 9555.6265 do not threaten the health, rights, or safety of a resident. All deviations must be corrected within the time specified by the commissioner but not exceeding one year. Failure to correct deviations within the stated time shall be cause for revocation of a license or a fine or both.

Approved by Revisor _____

Subp. 9. **Variance procedure.** An applicant or operator may request a variance from compliance with parts 9555.5105 and 9555.6105 to 9555.6265. A request for a variance must comply with and be handled according to the following procedures:

A. An applicant or operator must submit a written request for a variance to the commissioner. The request must include:

(1) the sections or parts 9555.6105 to 9555.6275 with which the applicant or operator cannot comply;

(2) the reasons why the applicant or operator needs to depart from the specified sections;

(3) the period for which the applicant or operator requests a variance; and

(4) the specific equivalent alternative measures that the applicant or operator will provide so the health, rights, and safety of residents are ensured if the variance is granted.

B. An applicant or operator must submit to the commissioner written approval from a fire marshal of the alternative measures identified to ensure the safety of residents when a variance of part 9555.6125, subpart 2, is requested.

C. An applicant or operator must submit to the commissioner written approval from a health authority of the alternative measures identified to ensure the health of residents when a variance of parts 9555.6225 and 9555.6215 is requested.

Subp. 10. **Variance standard.** A variance may be granted if:

A. the variance is submitted in accordance with subpart 9;

B. the commissioner does not have reasonable cause to believe the health, rights, or safety of the residents will be threatened;

C. the variance would not be contrary to a standard required by Minnesota Statutes; and

D. a request for variance to subpart 4, item E, has

Approved
by Revisor _____

clear and convincing evidence presented by the operator, caregiver, or household member that no threat or harm whatsoever will result to the residents due to the granting of the variance. The commissioner shall consider the nature of the crime committed and amount of time which has elapsed without a repeat of the crime.

Subp. 11. **License terms.** A license, whether regular or provisional, must show:

A. the licensed capacity of the adult foster home;

B. the expiration date of the license and address of the residence;

C. the name and address of the operator;

D. that the operator is licensed under parts 9555.5105 and 9555.6105 to 9555.6265; and

E. the provisional status of the license, if applicable.

Subp. 12. **Change in license terms.** The following shall apply to changes in the terms of licensure:

A. The license issued must not be transferred to another operator, building, or address unless the provisions in item B are followed first.

B. The operator must notify the commissioner and the studies in part 9555.6125 must be completed:

(1) before the operator moves the residence to another building or address;

(2) when there is an addition of any adult or child who is or will be a roomer, resident, household member, or caregiver;

(3) when the operator makes structural changes to the residence that require a building permit from the local jurisdiction; or

(4) before the operator changes, sells, or transfers ownership or responsibility for the operation of the residence.

Subp. 13. **License renewal.** Before the expiration of a license, the commissioner must conduct a study of the operator

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and an inspection of the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265 at least once every 12 months to determine whether a new license shall be issued.

9555.6145 NEGATIVE LICENSING ACTIONS.

Subpart 1. **Definition.** For the purposes of this part, "negative licensing action" means denial of application for licensure, revocation, probation, suspension, or immediate suspension of an existing license.

Subp. 2. **Procedures.** In accordance with Minnesota Statutes, section 245.801, failure to comply with parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure is grounds for a negative licensing action. If the local agency recommends a negative licensing action, the local agency shall notify the department and the department shall determine if the standards in parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall follow the procedures in Minnesota Statutes, section 245.801, and notify the applicant or operator by certified mail, unless personal service is required by subpart 7. The notice of negative licensing action must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed negative licensing action. The notice of negative licensing action must inform the applicant or operator of the right to appeal the decision. The applicant or operator shall have an opportunity for a hearing under Minnesota Statutes, sections 14.57 to 14.70.

Subp. 3. **Denial.** If the commissioner denies an application for licensure, the applicant must tell the commissioner of the applicant's appeal of the decision within 20 days after receipt of the notice of denial.

Subp. 4. **Revocation, probation, or suspension.** If the commissioner revokes a license, makes a license probationary, or suspends a license, the operator must tell the commissioner of the operator's appeal of the decision within ten days after

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by Revisor _____

receipt of the notice of revocation, probation, or suspension.

Subp. 5. **Immediate suspension.** If the commissioner finds that the health, safety, or rights of the residents in care are in imminent danger, the commissioner shall immediately suspend the license and notify the local agency to remove the residents. The operator shall be notified by personal service and must tell the commissioner of the operator's appeal of the decision within five days after receipt of the notice of immediate suspension. The appeal does not stay the decision of the commissioner to immediately suspend the license.

Subp. 6. **Correction orders and fines.** If the commissioner finds that the operator does not comply with parts 9555.5105 and 9555.6105 to 9555.6265, the commissioner shall issue a correction order under Minnesota Statutes, section 245.805, and the operator may be subject to a fine for each uncorrected deficiency.

Subp. 7. **Notice of negative licensing action.** At the time the commissioner notifies the operator of a proposed negative licensing action, the commissioner shall notify residents and residents' legal representatives of the proposed negative licensing action and of the operator's right to appeal. The notification procedures in Minnesota Statutes, section 626.557, subdivision 10, paragraph (a), shall be followed in situations alleging abuse or neglect of residents.

Subp. 8. **Reapplication after revocation.** An operator whose license has been revoked shall not be granted a new license for five years following revocation and must reapply for licensure to determine current compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

~~9555.6155 RECORD ON THE RESIDENCE.~~

~~A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:~~

~~A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1,~~

Approved by Revisor _____

B.--the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C.--the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;

D.--any written inspection reports from a health authority or building official;

E.--the commissioner's initial and any renewal licensing studies and inspections;

F.--any comments of the operator or provider about the licensing studies and inspections;

G.--written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H.--a list of residents currently in the residence;

I.--a list of residents who have been in the residence in the past five years;

J.--documentation of any variances to parts 9555.6105 to 9555.6265;

K.--arrest, conviction, and criminal history records on the operator, caregivers, and household members, and caregivers;

L.--if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125, subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M.--a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N.--a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O.--a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

Approved by Revisor _____

9555.6165 CAPACITY.

Subpart 1. **Licensed capacity.** A maximum of four residents may live in the adult foster home at one time.

Subp. 2. **Capacity of roomers and residents.** The total number of roomers and residents in the adult foster home at one time shall not exceed four.

9555.6167 INDIVIDUAL RESIDENT PLACEMENT AGREEMENT.

The operator shall ensure that an individual resident placement agreement as defined in part 9555.5105, subpart 19, is developed, signed, and on file for the resident who is not receiving community social services under parts 9550.0010 to 9550.0092, and who does not have an individual service plan developed under part 9525.0075 or 9550.0090.

9555.6175 COOPERATE AND REPORT TO AGENCIES.

Subpart 1. **Cooperating with service agency.** The operator shall cooperate with the service agency in carrying out the provisions of the individual service plan for each resident who has one and in developing the individual resident placement agreement.

Subp. 2. **Abuse and neglect reporting.** Caregivers shall immediately report any suspected abuse or neglect of a resident to the commissioner, local agency, local police, or county sheriff as required by the Vulnerable Adults Act.

Subp. 3. **Reporting to local agency.** The operator shall ensure that the local agency is told:

A. within five calendar days of any change in the regular membership of the household or caregiver's employment status;

B. within 24 hours after the occurrence of a fire that causes damage to the residence or requires the services of a fire department or the onset of any changes or repairs to the residence that require a building permit;

C. immediately after the occurrence of any serious injury or death of a resident. "Serious injury" means an injury

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by Revisor _____

that ~~is treated~~ requires treatment by a physician;

D. within 24 hours of a change in health status of a caregiver that could affect the ability of the caregiver to care for a resident;

E. immediately upon diagnosis by a physician or health authority of a reportable communicable disease, as specified in parts 4605.7000 to 4605.7800, of any resident, caregiver, or household member;

F. at least 30 days before the involuntary discharge of a resident who does not have an individual service plan; and

G. within seven days after the transfer or voluntary discharge of a resident who does not have an individual service plan.

Subp. 4. **Reporting to service agency.** The operator shall ensure that the service agency is told:

A. within five days if a resident shows a need for additional community health or social services; and

B. at least 30 days before the involuntary discharge of a resident. When a resident wants to voluntarily leave the adult foster home, the operator must notify the service agency within three days. In this instance, the resident's legal representative, if any, shall also be notified by the service agency.

9555.6185 FOSTER CARE TRAINING.

Subpart 1. **Orientation.** Operators and caregivers must complete the orientation provided by the local agency in part 9555.5505 prior to placement of the first resident following initial licensure.

Subp. 2. **Training requirements.** In addition to the orientation training, caregivers must complete the training designed to meet the needs of the residents in care in any of the subject areas and in the amount specified in subpart 4. The operator must ensure that a record of training completed is maintained.

A. Caregivers with zero to five years of licensure or

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experience as an adult foster home caregiver must complete 12 hours training a year.

B. Caregivers with six or more years of licensure or experience as an adult foster home caregiver must complete six hours training a year.

C. Caregivers who provide services according to a contract between the operator and the department or service must comply with any additional training requirements stated in the terms of the contract.

Subp. 3. **Exceptions.** The following persons are exempt from the training requirements in this part:

A. caregivers providing not more than 30 cumulative days of foster care in a 12-month period; and

B. caregivers providing foster care eight hours or less a week.

Subp. 4. **Training subjects.** Training subjects shall be selected from the following areas:

A. communication skills;

B. roles and relationships in foster care;

C. community services for adults;

D. constructive problem solving;

E. cultural differences;

F. basic first aid and cardiopulmonary resuscitation (CPR);

G. home safety;

H. self-esteem;

I. medication assistance;

J. human sexuality;

K. death, dying, separation, and grieving;

L. aging process;

M. recreation and leisure time;

N. nutrition;

O. mental health;

P. mental retardation;

Q. physical disabilities;

R. chemical dependency;

Approved by Revisor _____

S. abuse and neglect;

T. stress management;

U. assertiveness;

V. eating disorders;

W. behavior problem solving;

X. money management;

Y. data privacy;

Z. living skills training; and

AA. other areas that the local agency documents as relevant to adult foster care.

9555.6195 PROHIBITIONS AGAINST ABUSE, NEGLECT, AND DISCRIMINATION.

Subpart 1. **Protection from neglect and abuse.** The operator shall ensure that residents are protected from abuse and neglect through compliance with the Vulnerable Adults Act and parts 9555.8000 to 9555.8500.

Subp. 2. **Nondiscrimination.** Under Minnesota Statutes, section 363.03, subdivision 3, the operator must comply with the nondiscrimination provisions applicable to public accommodations.

9555.6205 PHYSICAL ENVIRONMMENT.

Subpart 1. **Residential occupancy.** The residence must meet the definition of a dwelling unit in a residential occupancy and be free of any plumbing, electrical, ventilation, mechanical or structural hazard that would threaten the health or safety of a resident.

Subp. 2. **Living room access.** Each resident must have use of and free access to the living room.

Subp. 3. **Dining area.** Each residence shall have a dining area furnished for group eating that is simultaneously accessible to residents and household members.

Subp. 4. **Resident bedrooms.** Residents must mutually consent, in writing, to share a bedroom with another resident. No more than two residents may share one bedroom.

A. Resident bedrooms must meet the following criteria:

(1) A single-occupancy bedroom must have at least

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80 square feet of floor space with a 7-1/2 foot ceiling. A double-occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot ceiling.

(2) Bedrooms must be separated from halls, corridors, and other habitable rooms by floor-to-ceiling walls containing no openings except doorways and must not serve as a corridor to another room used in daily living.

(3) A resident's personal possessions and items for the resident's own use are the only items permitted to be stored in a resident's bedroom.

(4) When possible, a resident shall be allowed to have items of furniture that he or she personally owns in the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or another resident's use of the bedroom.

B. Each resident shall be provided with the following furnishings:

(1) A separate, adult-size single bed or larger with a clean mattress in good repair.

(2) Clean bedding appropriate for the season for each resident.

(3) An individual dresser and closet for storage of personal possessions and clothing.

(4) A mirror for grooming.

9555.6215 WATER AND FOOD.

Subpart 1. **Water.** Water from privately-owned wells must be tested annually by a Minnesota Health Department-certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. Retesting and corrective measures may be required by the health authority if results exceed state water standards in chapter 4720.

Subp. 2. **Food.** Food served must meet any special dietary needs of a resident as prescribed by the resident's physician or dietitian. Three nutritionally balanced meals a day must be served or made available to residents, and nutritious snacks

Approved by Revisor _____

must be available between meals.

Subp. 3. **Food safety.** Food must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

9555.6225 SANITATION AND HEALTH.

Subpart 1. **Sanitation and cleanliness.** The residence must be clean, as specified in part 4625.0100, subpart 2, and free from accumulations of dirt, rubbish, peeling paint, vermin, or insects.

Subp. 2. **Toxic substances.** Chemicals, detergents, and other toxic substances must not be stored with food products.

Subp. 3. **Physical examination of resident.** The operator must ensure that each resident ~~must be~~ is examined by a physician no more than 30 days before or within three days after placement in the adult foster home to ensure that the resident is free of the reportable communicable diseases named in parts 4605.7000 to 4605.7800. Transfer records from a health care facility licensed by the Department of Health may be substituted for this requirement.

Subp. 4. **First-aid supplies.** The operator shall ensure that the residence is equipped with accessible first-aid supplies including bandages, sterile compresses, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, adhesive tape, and first-aid manual.

Subp. 5. **Emergencies.** The operator shall be prepared for emergencies and ensure that:

A. a noncoin-operated telephone and an operable flashlight is located within the residence;

B. the phone numbers of each resident's representative, physician, and dentist are readily available;

C. phone numbers of the local fire department, police department, and an emergency transportation service are posted by the telephone;

D. prior arrangements are made for a substitute caregiver who meets the qualifications in part 9555.6125,

Approved by Revisor _____

subpart 4, to provide care during emergencies;

E. each resident is informed of a designated area within the residence where the resident shall go for cover during severe storms or tornadoes;

F. fire drills are conducted at least once every three months;

G. a written fire escape plan and a log of quarterly fire drills is on file in the residence; and

H. the fire escape plan is approved by the fire marshal and specifies emergency phone numbers, a place to meet outdoors for roll call, smoke detector and fire extinguisher locations, plans for quarterly fire and tornado drill sessions, and escape routes to the outside from the levels used by residents. In buildings with three or more dwelling units, enclosed exit stairs must be indicated. There must be an emergency escape plan for each resident.

Subp. 6. **Individual personal articles.** Individual clean bed linens, towels, and wash cloths must be available for each resident.

Subp. 7. **Pets.** Pets housed within the residence shall be maintained in good health. The operator shall ensure that the resident and the resident's representative is notified before admission of the presence of pets in the residence.

Subp. 8. **Resident's medication.** Caregivers may administer medication to a resident who is not capable of self-administering medication only if the operator ensures that the procedures in items A to G are followed.

A. The operator shall get a written statement from the resident's physician stating the name of the medication prescribed and whether the resident is capable of taking the medication without assistance.

B. The operator shall get written permission from the resident or the resident's legal representative to administer the medication.

C. A resident who is not capable of self-administering the medication may be administered the

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medication by a caregiver in accordance with the written instructions from the resident's physician if the written permission has been obtained from the resident or the resident's legal representative. A prescription label is sufficient to constitute written instructions from a physician.

D. Each resident receiving medication assistance must have a medication record containing:

(1) the information on the prescription label;

(2) the consequences if the medication is not taken as directed;

(3) the adverse reactions to the medication that must be reported to the resident's physician;

(4) instruction from the resident's physician indicating when the resident's physician must be notified if the medication is not taken as prescribed;

(5) notation of when a medication is started, changed, or discontinued; and

(6) notation of any reports made to the resident's physician whenever the resident does not take medication as prescribed or there are any adverse medication reactions.

E. A caregiver must report to the resident's physician and legal representative:

(1) any adverse medication reaction as specified in item D, subitem (3); and

(2) the resident's refusal or failure to take medication as prescribed and in accordance with the physician's instructions in item D, subitem (4).

F. A caregiver must immediately report to the local agency whenever the resident's physician is notified because medication is not taken as prescribed and the physician determines that the refusal or failure to take medication as prescribed creates an immediate threat to the resident's health or safety or the health or safety of other residents or household members.

G. A caregiver shall not give injectable medication

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unless:

(1) the caregiver is a registered nurse or licensed practical nurse with a current Minnesota license, is authorized to do so in writing by the resident's physician, and is covered by professional liability insurance; or

(2) there is an agreement signed by the caregiver, the resident's physician, the resident, and the resident's legal representative specifying what injections may be given, when, how, and that the physician shall retain responsibility for the caregiver's giving the injections. A copy of the agreement must be placed in the resident's personal record.

Subp. 9. **Storage of medication.** Schedule II controlled substances in the residence that are named in Minnesota Statutes, section 152.02, subdivision 3, must be stored in a locked storage area permitting access only by residents and caregivers authorized to administer the medication as named in subpart 8.

Subp. 10. **Weapons.** Weapons and ammunition must be stored separately in locked areas that are inaccessible to residents and prevent contents from being visible to residents. "Weapons" means firearms and other instruments or devices designed for and capable of producing bodily harm.

9555.6235 ADULT FOSTER HOME PROGRAM.

The operator shall develop and implement a commissioner-approved written plan that allows residents to share in the privileges and responsibilities of the adult foster home and includes the information in items A to C.

A. The type of functionally impaired adults to be served.

B. The foster care that will be available to residents within the adult foster home including the provision of:

(1) lodging;

(2) food;

Approved by Revisor _____

(3) protection;

(4) personal care;

(5) household and living skills assistance or training;

(6) opportunities to participate in community, recreation and religious activities, and events of the resident's choosing;

(7) opportunities for the resident to have contact with family and friends;

(8) assistance safeguarding cash resources, such as banking, reporting the resident's earnings to appropriate agencies, keeping records of financial information (checks issued and received), and accounting for the resident's funds controlled by the operator;

(9) supervision;

(10) transportation;

(11) assistance with the provision of other community, social, or health services as named in the resident's individual service plan, if any; and

(12) medication assistance.

C. A program abuse prevention plan with specific measures to be taken to minimize the risk of abuse to residents under part 9555.8200.

9555.6245 PERSONAL RECORD OF RESIDENT IN FOSTER CARE.

Subpart 1. **General provisions.** The operator shall ensure that an individual record is maintained in the adult foster home on each resident.

Subp. 2. **Demographic information.** The record must include the resident's name, birthdate, sex, race, marital status, next of kin, Social Security number, medical assistance number, name, address, and phone number of an emergency contact or the resident's legal representative, admission date, place or address from which the resident was admitted, date of leaving the residence, and place or address to which the resident has moved.

Approved by Revisor _____

Subp. 3. **Medical information.** The record must contain the following medical information:

A. the name, address, and phone number of the resident's physician, dentist, clinic, and other sources of medical care;

B. a health history and information on any health risks, allergies, currently prescribed medication, and documentation of the physical examination or transfer record required in part 9555.6225, subpart 3;

C. any emergency treatment needed or provided while the resident resides in the adult foster home; and

D. the medication record required under part 9555.6225, subpart 8.

Subp. 4. **Cash resource information.** The record must include an accounting of any personal funds and charges against those funds if the operator or a caregiver gives cash resource assistance to a resident.

Subp. 5. **Incident reports.** The record must contain all incident reports. Incident reports must be written when a resident requires emergency care, when a police report of an incident involving a resident has been made, or when a complaint has been filed under the Vulnerable Adults Act. Incident reports must be entered into the resident's personal record by the ~~provider~~ operator within ~~two~~ eight hours after knowledge of the occurrence.

Subp. 6. **Individual abuse prevention plan.** The record must contain an individual abuse prevention plan for a resident developed in compliance with part 9555.8300.

Subp. 7. **Individual service plan.** The record must contain the service agency's initial and current individual service plan for a resident.

Subp. 8. **Individual resident placement agreement.** The record must contain the initial individual resident placement agreement for a resident and the annual update of the agreement.

Subp. 9. **Individual mobility check list.** The record must contain an individual mobility check list for a resident as

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specified in part 9555.5605, subpart 2.

Subp. 10. **Transfer or discharge.** When a resident is transferred or discharged for any reason a note must be made in the resident's record showing the date of discharge, forwarding address, and reason for discharge or transfer.

Subp. 11. **Record storage.** The personal record on a resident must be stored by the operator for four years after the resident has been discharged from the residence.

9555.6255 RESIDENT'S RIGHTS.

Subpart 1. **Information about rights.** The operator shall ensure that a resident and a resident's legal representative are given, at admission:

A. an explanation and copy of the resident's rights specified in subparts 2 to 7;

B. a written summary of the Vulnerable Adults Act prepared by the department; and

C. the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

Subp. 2. **Right to use telephone.** A resident has the right to daily, private access to and use of a noncoin-operated telephone for local calls and long-distance calls made collect or paid for by the resident.

Subp. 3. **Right to receive and send mail.** A resident has the right to receive and send uncensored, unopened mail.

Subp. 4. **Right to privacy.** A resident has the right to personal privacy and privacy for visits from others, and the respect of individuality and cultural identity. Privacy must be respected by operators, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance as noted in the resident's individual record.

Subp. 5. **Right to use personal property.** A resident has

Approved by Revisor _____

the right to keep and use personal clothing and possessions as space permits, unless to do so would infringe on the health, safety, or rights of other residents or household members.

Subp. 6. **Right to associate.** A resident has the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of other residents or household members.

Subp. 7. **Married residents.** Married residents have the right to privacy for visits by their spouses, and, if both spouses are residents of the adult foster home, they have the right to share a bedroom and bed.

9555.6265 SAFEGUARDS FOR CASH RESOURCES ENTRUSTED TO OPERATOR.

Subpart 1. **Determination.** If the social worker determines that a resident needs and wants assistance safeguarding cash resources, any cash resources entrusted to the operator must be handled in accordance with this part.

Subp. 2. **Procedures for handling cash resources.** If a resident entrusts cash resources to the operator, the procedures in items A to F must be used.

A. The resident and the resident's legal representative shall be given a receipt by the operator. Receipts must be signed by the resident or the resident's legal representative.

B. The operator shall not be entrusted with cash resources in excess of $300 plus resources sufficient to meet one month's cost of care.

C. The resident or resident's legal representative shall have access to the written records involving the resident's funds.

D. The operator shall provide the resident or resident's legal representative with a written quarterly accounting of financial transactions made on behalf of the resident.

E. Upon the death or transfer of a resident, any cash

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by Revisor _____

resources of the resident must be surrendered to the resident or the resident's legal representative, or given to the executor or administrator of the estate ~~or, if none has been appointed, to the resident's legal representative~~ in exchange for an itemized receipt.

REPEALER. Minnesota Rules, parts 9555.5100, 9555.5200, 9555.5300, and 9555.5400 are repealed five days after the notice of adoption of parts 9555.5105 to 9555.5705 is published in the State Register. Minnesota Rules, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed five days after the notice of adoption of parts 9555.6105 to 9555.6265 is published in the State Register, except as parts 9555.6100 to 9555.6400 apply to operators of adult foster homes providing care and approved by the county board under part 9555.6400 on the date of adoption of parts 9555.6105 to 9555.6265. As to the operators of those adult foster homes, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed one year after the notice of adoption of parts 9555.6105 to 9555.6265 is published in the State Register.

EFFECTIVE DATE. Minnesota Rules, parts 9555.5105 to 9555.6265 take effect five days after the notice of adoption is published in the State Register, except for the operators of those adult foster homes providing care and approved by a county welfare board under part 9555.6400 on that date. As to the operators of those adult foster homes, parts 9555.6105 to 9555.6265 take effect six months after the notice of adoption is published in the State Register or on the day after an operator's current period of approval under part 9555.6400 expires, whichever is later.

Approved by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 1 8 1987
Joan Anderson Growe
Secretary of State
2:30pm

APPROVED AS TO FORM AND LEGALITY
3/9 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
ASSISTANT ATTORNEY GENERAL

Notice of Sol. Homes

Exhibit A

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARINGS

Department of Natural Resources
Boat and Water Safety

Adopted Rule Relating to Lower St. Croix Surface Use

The rule proposed and published at *State Register*, Volume 9, Number 35, pages 1943-1944, February 25, 1985 (9 S.R. 1943) is adopted as proposed.

Pollution Control Agency
Solid and Hazardous Waste Division

Adopted Rules Relating to Low Level Radioactive Waste Generator Fees

The rules proposed and published at *State Register*, Volume 9, Number 33, pages 1812-1814, February 11, 1985 (9 S.R. 1812) are adopted as proposed.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Human Services

Outside Opinion Sought Concerning a Proposed Rule Governing Adult Foster Homes

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the agency in preparing a new rule to replace Minnesota Rules, Parts 9555.6100 to 9555.6400, governing standards for adult foster homes. The promulgation of this rule is authorized by Minnesota Statutes, Sections 256.01, Subdivision 4 and 256E.05, and Laws of Minnesota 1984, Chapter 542.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Gwen Wildermuth
Social Services Division
Department of Human Services
4th Floor, Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612/296-0311 (regular business hours)

All statements of information and comment shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

Notice of Sol. Care

Exhibit C

Department of Human Services

Outside Opinion Sought Concerning Proposed Rules Governing Adult Foster Care Services

Notice is hereby given that the Minnesota Department of Human Services is considering a permanent rule governing the administration and provision of adult foster care services to functionally-impaired adults by local county human service agencies.

The rule parts are authorized by Minnesota Statutes, 256.01, subdivision 2,(3); 256.03, subdivision 2 D and C; 256.E.05, subdivisions 1 and 3; and 256.E08, subdivision 1.

The purpose of the rule parts is to ensure that a functionally-impaired adult has access to adult foster homes as a living arrangement; that the adult receives services when selecting an adult foster home; that individualized service and placement plans are developed and carried out; and that community, social and health care services are arranged for in accordance with the individual service and placement plans.

The rule parts set forth the agency's responsibility for foster home development, staffing, training, adult placements, development of the individual resident placement plan, social service requirements and complaints.

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

Gwen Wildermuth
Social Services Division
Department of Human Services
4th Floor, Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612/296-0311 (regular business hours)

All statements of information and comment shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

Department of Human Services

Outside Opinion Sought Concerning Rules Relating to Nursing Home Operating Cost Payment Rate Determination

Notice is hereby given that the Minnesota Department of Human Services plans to promulgate amendments to Temporary Rule parts 9549.0050 to 9549.0059 relating to determination of operating cost payment rates for nursing homes licensed under Minnesota Statutes, chapter 144A or boarding care facilities licensed under Minnesota Statutes, section 144.50 to 144.58 participating in the Medical Assistance Program. Promulgation of these amendments is dependent on passage of legislation which has been introduced in the legislature to extend temporary rule parts 9549.0050 to 9549.0059. If the legislation does not pass, the department will discontinue the amendment process and continue the permanent rulemaking process.

Rule parts 9549.0050 to 9549.0059 are authorized by Minnesota Statutes, section 256B.431, subdivision 6. The department is considering amendments to these rules to clarify the operating cost rate determination process to be used to determine rates for fiscal year 1987 and to update the resident classification system as used in determining operating cost payment rates.

All interested persons or groups are requested to participate. Statements of information and comment may be addressed to:

Jane M. Delage
Rules Unit, Department of Human Services
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55105

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 297-4302. All statements of information and comment will be received until March 10. Any written material received by the Department will become part of the hearing record.

Exhibit L to Copy

Department of Human Services

Proposed Permanent Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARINGS

Rules as Proposed (all new material)

9555.5105 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9555.5105 to 9555.6265 the following terms have the meanings given them.

Subp. 2. **Adult.** "Adult" means a person at least 18 years of age.

Subp. 3. **Adult foster care.** "Adult foster care" means the provision of food, lodging, protection, supervision, and household services to a functionally impaired adult in a residence and may also include the provision of personal care, household and living skills assistance or training, medication assistance under part 9555.6225, subpart 8, and assistance safeguarding cash resources under part 9555.6265.

Subp. 4. **Adult foster care services.** "Adult foster care services" means those community social services in parts 9550.0010 to 9550.0092 that are provided to residents or prospective residents of adult foster homes.

Subp. 5. **Adult foster home.** "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides up to four functionally impaired residents with 24-hour foster care.

Subp. 6. **Applicant.** "Applicant" means the operator seeking a license to operate an adult foster home.

Subp. 7. **Building official.** "Building official" means a person appointed in accordance with Minnesota Statutes, section 16B.65, to administer the state building code or the building official's authorized representative.

Subp. 8. **Caregiver.** "Caregiver" means an adult who meets the qualifications in part 9555.6125, subpart 4, and gives care to a resident in an adult foster home.

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Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

Subp. 10. **County board.** "County board" means the county board of commissioners in each county. When a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board.

Subp. 11. **County of financial responsibility.** "County of financial responsibility" means the county responsible for paying for foster care services for a resident under Minnesota Statutes, section 256E.08, subdivision 7.

Subp. 12. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 13. **Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.011, to administer and enforce the Minnesota Uniform Fire Code or the fire marshal's authorized representative.

Subp. 14. **Functionally impaired.** "Functionally impaired" means a person who has:

A. substantial difficulty carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working; or

B. a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

Subp. 15. **Health authority.** "Health authority" means the designated representative of the local board of health organized under Minnesota Statutes, chapter 145, to enforce public health codes.

Subp. 16. **Household member.** "Household member" means any person living in the adult foster home more than 30 consecutive calendar days in any 12-month period who is not a resident.

Subp. 17. **Household services.** "Household services" means activities taught to or performed by a caregiver for a resident such as cooking, cleaning, budgeting, and other household care

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or maintenance tasks.

Subp. 18. **Individual service plan.** "Individual service plan" means the written plan agreed upon and signed by the county of financial responsibility and the resident or resident's legal representative for the provision of social services under part 9550.0090. For persons with mental retardation or a related condition, it means the plan agreed upon and signed under part 9525.0075.

Subp. 19. **Individual resident placement agreement.** "Individual resident placement agreement" means the written document specifying the terms for provision of foster care to an adult that is developed under part 9555.5705 for persons receiving services under part 9525.0075 or 9550.0090 or under part 9555.6167 for persons not receiving community social services or services for persons with mental retardation or a related condition. The individual resident placement agreement must:

A. describe the reason for placement;

B. describe what the operator must provide in the areas of lodging, food, protection, household or living skills training or assistance, personal care assistance, assistance safeguarding cash resources, transportation, residence accessibility modifications, medication assistance, and supervision;

C. describe who is financially responsible for the payment of the foster care provided by the operator;

D. describe any other community health and social services that the operator will assist in providing;

E. coordinate with the contents of the individual habilitation plan developed under parts 9525.0015 to 9525.0165 for persons with mental retardation or a related condition; and

F. coordinate with the individual service plan developed under part 9525.0075 or 9550.0090.

Subp. 20. **Legal representative.** "Legal representative" means a person appointed by the court as a guardian or conservator of an adult under Minnesota Statutes, sections

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525.539 to 525.6198 or chapter 252A.

Subp. 21. **License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period in accordance with parts 9555.6105 to 9555.6265 and Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2. License includes a provisional license issued to an operator who is temporarily unable to comply with the requirements for a license.

Subp. 22. **Licensed capacity.** "Licensed capacity" means the maximum number of functionally impaired adults who may receive foster care in the adult foster home at any one time.

Subp. 23. **Living skills assistance.** "Living skills assistance" means activities taught or performed to assist the resident to use services, transportation, recreation, and social opportunities available in the community.

Subp. 24. **Local agency.** "Local agency" means the county or multi-county social service agency governed by the county board or multi-county human services board of the county in which the adult foster home is located.

Subp. 25. **Medication.** "Medication" means a prescription substance taken internally, applied externally, or injected to prevent or treat a condition or disease, heal, or relieve pain.

Subp. 26. **Minnesota Uniform Fire Code.** "Minnesota Uniform Fire Code" means those codes and regulations adopted by the fire marshal under Minnesota Statutes, section 299F.011 and parts 7510.0200 to 7510.3000.

Subp. 27. **Operator.** "Operator" means the individual, partnership, corporation, or governmental unit licensed by the department and legally responsible for the operation of an adult foster home.

Subp. 28. **Personal care.** "Personal care" means assistance by a caregiver with or teaching of skills related to activities of daily living such as eating, grooming, bathing, and laundering clothes.

Subp. 29. **Protection.** "Protection" means compliance with the Vulnerable Adults Act.

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Subp. 30. **Related.** "Related" means any of the following relationships by marriage, blood, or adoption: spouse, parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, grandchild, child, niece, and nephew.

Subp. 31. **Residence.** "Residence" means the single dwelling unit in which foster care is provided with complete, independent living facilities for one or more persons. As defined in section 405 of the Minnesota State Building Code, the residence has permanent provisions for living, sleeping, cooking, eating, and sanitation.

Subp. 32. **Resident.** "Resident" means a functionally impaired adult residing in an adult foster home and receiving foster care.

Subp. 33. **Roomer.** "Roomer" means a household member who is not related to the provider and is not a resident or caregiver.

Subp. 34. **Service agency.** "Service agency" means the public or private agency designated by the county of financial responsibility with the responsibility to provide the foster care services in parts 9555.5105 to 9555.5705.

Subp. 35. **Social worker.** "Social worker" means a person designated by the local agency or service agency of the county of financial responsibility with credentials meeting the minimum requirements under the Minnesota Merit System classification for social worker or a county personnel system equivalent under Minnesota Statutes, section 375.56-71; Laws of Minnesota 1965, chapter 855; and Laws of Minnesota 1974, chapter 435, article 3, who is responsible for coordinating a prospective resident's initial assessment and placement in part 9555.5605 the development of the individual resident placement agreement for those persons with an individual service plan.

Subp. 36. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of administration under chapter 1300 and Minnesota Statutes, section 16B.59.

Subp. 37. **Supervision.** "Supervision" means:

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A. oversight by a caregiver as specified in the individual resident placement agreement and daily awareness of a resident's needs and activities; and

B. the presence of a caregiver in the residence during normal sleeping hours.

Subp. 38. **Variance.** "Variance" means written permission by the commissioner for an applicant or operator to depart from the provisions of parts 9555.6105 to 9555.6265 if equivalent alternative measures are provided to ensure the health, safety, and rights of a resident.

Subp. 39. **Vulnerable Adults Act.** "Vulnerable Adults Act" means Minnesota Statutes, section 626.557.

9555.5205 APPLICABILITY.

Parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to residents or prospective residents of adult foster homes by the county board.

9555.5305 PURPOSE.

The purpose of parts 9555.5105 to 9555.5705 is to ensure that a resident or prospective resident of an adult foster home receives an assessment of need for adult foster care, is notified about adult foster care services that are available, and consultation, assistance, and information are provided to applicants or operators of adult foster homes.

9555.5405 FOSTER HOME DEVELOPMENT.

The local agency shall implement an annual adult foster home recruitment plan specifying a method and timetable for recruiting operators to meet the county's adult foster care needs if adult foster care services to residents or prospective residents of adult foster homes are specified by the county board in the community social services plan developed under parts 9550.0010 to 9550.0092.

9555.5415 LICENSING ASSISTANCE.

Subpart 1. **Assistance.** The local agency shall tell persons seeking information about adult foster home licensure of

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the standards in parts 9555.6105 to 9555.6265. The local agency shall offer consultation, assistance, and information in accordance with parts 9555.6105 to 9555.6265. The local agency shall:

A. supply the applicant with the department application form, a copy of parts 9555.5105 and 9555.6105 to 9555.6265, and the department forms needed to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265;

B. stamp and date a signed and completed department application form on the date of receipt;

C. accept and process applications for licensure and recommend licensure or negative licensing actions to the department;

D. conduct the inspection of the residence and study of the applicant in accordance with parts 9555.5105 and 9555.6105 to 9555.6265; and

E. notify the local zoning administrator in the jurisdiction in which the residence is located at least 30 days prior to the initial issuance date of a license. The date the local zoning administrator was notified must be noted on the application form.

Subp. 2. **Unlicensed residences.** When the local agency has reasonable cause to believe a residence required to be licensed under parts 9555.6105 to 9555.6265 is operating without a license, the local agency must verify the home's license status following the procedures in items A and B.

A. The local agency shall verify the home's license status within five working days. If the operator is not licensed to operate an adult foster home, the local agency shall contact the person providing adult foster care in the residence and tell the person of the licensing requirements in Minnesota Statutes, sections 245.781 to 245.812 and parts 9555.5105 and 9555.6105 to 9555.6265.

B. If no application is made to obtain a license within 30 days after the operator is told of the licensure requirements, the county attorney with jurisdiction to bring

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misdemeanor charges shall be notified by the local agency. The operator of a residence required to be licensed under parts 9555.5105 and 9555.6105 to 9555.6265 that is operating without a license is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.

C. A complaint concerning violations of parts 9555.6105 to 9555.6265 shall be investigated by the local agency within 14 working days of receipt, except complaints concerning abuse or neglect, which shall be investigated in accordance with parts 9555.7100 to 9555.7700. Substantiated complaints about an operator licensed under parts 9555.5105 and 9555.6105 to 9555.6265 shall be recorded in the record on the residence in part 9555.6155.

9555.5505 LOCAL AGENCY ORIENTATION AND TRAINING ROLE.

Subpart 1. **Local agency role.** The local agency shall ensure that:

A. the operator and caregivers comply with the orientation and training requirements in part 9555.6185; and

B. the orientation and training in part 9555.6185 is available within the county or within 50 miles of the adult foster home at times convenient to foster home operators.

Subp. 2. **Orientation.** The local agency shall provide three hours of orientation to a foster home operator and caregivers prior to the placement of the first resident following initial licensure. The orientation training must include training on requirements of the Vulnerable Adults Act contained in Minnesota Statutes, section 626.557; parts 9555.8000 to 9555.8500; and the general provisions of parts 9555.5105, and 9555.6105 to 9555.6265.

Subp. 3. **Information.** The local agency shall identify sources of training that meet the standards in part 9555.6185 and notify the operator of a licensed residence in the county at least once a year of the training opportunities available.

9555.5605 ASSESSMENT.

Subpart 1. **Assessment.** A social worker from the local

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agency or service agency of the county of financial responsibility shall ensure that a person seeking adult foster home placement has an assessment to determine the person's need for adult foster care.

A. An adult who has or may have a diagnosis of mental retardation or a related condition shall be assessed under part 9525.0065.

B. An adult requesting adult foster care services under parts 9550.0010 to 9550.0092 shall be assessed under item D and part 9550.0090.

C. An assessment performed under Minnesota Statutes, section 256B.091 shall satisfy the provisions of item D.

D. An assessment coordinated by a social worker and review of any information gathered from professionals must be made of the adult's:

(1) ability to manage activities of daily living;

(2) physical health, including impairments of mobility, sight, hearing, and speech;

(3) intellectual functioning and mental health, including impairments of judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life;

(4) need for supervision;

(5) need for protection;

(6) need for assistance in safeguarding cash resources;

(7) need for medication assistance;

(8) employability and vocational skills;

(9) need for family and community involvement; and

(10) need for community, social, or health services.

Subp. 2. **Mobility access assessment.** Before placement, or after placement if the local agency has reasonable cause to believe a mobility access, seizure, or disability problem has developed, the social worker shall determine, in consultation

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with the prospective resident and the resident's representative and any other person knowledgeable about the resident's needs, whether accessibility aides or modifications to the residence are needed. The need for accessibility aides or modifications to the residence shall be determined for persons with regular seizures or physical disabilities using an accessibility checklist approved by the commissioner in consultation with persons knowledgeable about the accessibility and mobility needs of the resident and persons knowledgeable about accessibility modifications to residential occupancies. A person confined to a wheelchair must be housed on a level with an exit directly to grade.

Subp. 3. **Placement standards.** A person shall be appropriate for adult foster home placement if the person:

A. is an adult;

B. is functionally impaired;

C. has requested, or the adult's legal representative has requested, foster care placement;

D. has demonstrated a need for foster care based on the assessment in subpart 1;

E. does not require continuous medical care or treatment in a facility licensed for acute care under chapter 4640; and

F. has been approved for placement under parts 9525.0015 to 9525.0145, if the adult has mental retardation or a related condition.

Subp. 4. **Placement and consumer choice.** A person who is appropriate for adult foster home placement, and the person's legal representative must be allowed to choose among between the homes that the social worker determines would meet the person's foster care needs.

Subp. 5. **Matching.** When referring the adult seeking foster care to a licensed adult foster home, the social worker shall match the licensing study information and the capacity of the adult foster home program developed by the operator under part 9555.6235 with the assessed needs of the functionally

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impaired adult determined under part 9555.5605, subparts 1 and 2.

Subp. 6. **Preplacement visit.** The social worker shall arrange for the functionally impaired adult to visit the prospective adult foster home before placement, except in cases of emergency placement or placement for less than 30 consecutive days. Before placement, the following shall be discussed with the operator:

A. the needs of the functionally impaired adult as determined by the assessment in part 9555.5605, subparts 1 and 2;

B. the foster care that must be provided by the operator to the adult seeking placement;

C. the adult's need for additional community health and social services and the operator's responsibility in assisting with provision of or access to those services; and

D. the financial arrangements to pay for the adult foster care.

9555.5705 PROVISION OF ADULT FOSTER CARE SERVICES TO RESIDENTS OF ADULT FOSTER HOMES.

Subpart 1. **Adult foster care service.** When the county board elects to provide adult foster care services under parts 9550.0010 to 9550.0092, the county board shall offer adult foster care services to the residents or prospective residents of an adult foster home. Adult foster care services may be provided directly by the county of financial responsibility, or by the service agency under a written agreement with the county of financial responsibility, or by another agency under contract to the county of financial responsibility.

Subp. 2. **Development of individual resident placement agreement.** If the resident or prospective resident requests and receives adult foster care services, then the service agency shall develop, and the resident, resident's legal representative, and the operator shall agree on and sign an individual resident placement agreement as defined in part 9555.5105, subpart 19. The agreement must be signed within 30 days of placement and be coordinated with the adult's individual

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service plan as defined in part 9555.5105, subpart 18. The service agency shall give a copy of the individual service plan to the operator. If the resident is appropriate for adult foster home placement and does not require adult foster care services under parts 9550.0010 to 9550.0092, the individual resident placement agreement shall be developed by the operator, resident, and resident's legal representative under part 9555.6167.

Subp. 3. **Placement review for residents with an individual service plan.** The service agency assigned to a resident in an adult foster home with an individual service plan must:

A. visit the resident and operator within 30 days of placement to confirm the appropriateness of the placement;

B. provide consultation services to the operator in meeting the resident's assessed needs;

C. provide a telephone number where caregivers and the resident or resident's legal representative may call for emergency social service assistance 24 hours a day; and

D. assist in developing the individual abuse prevention plan for the resident under parts 9555.7100 to 9555.7700.

9555.6105 APPLICABILITY AND PURPOSE.

Parts 9555.5105 and 9555.6105 to 9555.6265, as authorized by Minnesota Statutes, sections 245.781 to 245.812, govern the licensure of the operator of an adult foster home. The purpose of parts 9555.5105 and 9555.6105 to 9555.6265 is to establish procedures and standards for licensure and operation of an adult foster home so minimum levels of care are provided and the health, safety, and rights of residents are assured.

9555.6115 LICENSE APPLICATION PROCESS.

A license to operate an adult foster home must be obtained from the department under items A to E.

A. Application for a license must be made on the application form issued by the department and must be made in the county where the adult foster home is located.

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B. The applicant must be the individual or the authorized representative of the partnership, corporation, or government unit that will be the operator of the adult foster home.

C. Separate licenses are required for residences located at separate addresses, even if the residences are to be operated by the same operator.

D. An application for licensure is complete when the commissioner determines that the department forms and documentation needed for licensure, the inspection, zoning, evaluation, and investigative reports, documentation and information required to verify compliance with parts 9555.5105 and 9555.6105 to 9555.6265 have been submitted by the applicant. The commissioner shall stamp and date a signed and completed department application form on the date of receipt.

9555.6125 LICENSING STUDY.

Subpart 1. **Access to residence.** The applicant shall give the commissioner access to the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265. Access shall include the residence to be occupied as an adult foster home; any adjoining land or buildings owned or operated by the applicant or operator in conjunction with the provision of adult foster care and designated for use by a resident; noninterference in interviewing caregivers, roomers, or household members; and the right to view and photocopy the records and documents specified in parts 9555.6235 and 9555.6245. The commissioner shall have access to the residence at any time during the period of licensure to determine whether the operator is in compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

Subp. 2. **Inspections.** The residence must be inspected by a fire marshal within 12 months before initial licensure to verify that the residence is a dwelling unit within a residential occupancy as defined in section 9.117 of the Minnesota Uniform Fire Code and that the residence complies with

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the fire safety standards for that residential occupancy contained in the Minnesota Uniform Fire Code. A home safety checklist, approved by the commissioner, must be completed by the operator and the commissioner before licensure each year a fire marshal inspection is not made. The residence shall be inspected according to the licensed capacity specified on the initial application form. If the commissioner has reasonable cause to believe that a potentially hazardous condition may be present or the licensed capacity is increased to four residents, the commissioner shall request a subsequent inspection and written report by a fire marshal to verify the absence of hazard. Any condition cited by a fire marshal, building official, or health authority as hazardous or creating an immediate danger of fire or threat to health and safety must be corrected before a license is issued or renewed by the department.

Subp. 3. **Study of applicant.** A study of the applicant shall be conducted by the commissioner under items A to D.

A. The applicant shall provide the commissioner with a completed, signed form as required by Minnesota Statutes, section 245.783, subdivision 3, for the disclosure of arrest, conviction, and criminal history records for each caregiver, household member over the age of 12, and each owner, partner, board member, and employee who will be involved in the operation of the adult foster home. The form must disclose the person's full name and all previous or additional names, date of birth, the specific nature of information to be disclosed, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attorney, and sheriff or chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record. If the person has not resided in the state for five years, the form shall also be sent to a national criminal history repository.

B. The applicant shall provide social history

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information to the commissioner about each caregiver and household member. "Social history information" means information on education; employment; financial condition; military service; marital history; mental illness; chemical dependency; hospitalizations; involuntary terminations of parental rights; the use of mental retardation services; felony, gross misdemeanor or misdemeanor convictions, arrests or admissions; and substantiated reports of neglect or abuse.

C. If the applicant is an authorized representative of a partnership, corporation, or governmental unit, the applicant shall make available and maintain the following information:

(1) the names and addresses of the owners and board members;

(2) the name, address, and physical health report of the employees who are involved in the operation of the adult foster home;

(3) an organization chart;

(4) personnel policies;

(5) the personnel records of persons in subitem (2) and verification that they comply with the qualifications in subpart 4;

(6) job descriptions of persons in subitem (2); and

(7) the staffing pattern to be used in the adult foster home.

D. The applicant shall provide the commissioner with the names of three persons not related to the applicant who can supply information about the applicant's ability to operate an adult foster home.

Subp. 4. **Qualifications.** Operators, caregivers, and household members must meet the qualifications in items A to H.

A. Operators and caregivers must be adults.

B. Household members and caregivers must be free of reportable communicable disease as named in parts 4605.7000 to 4605.7800. With the exception of caregivers providing less than

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30 days of care per year, the household member and caregiver must provide the commissioner with a physician's statement showing the absence of reportable communicable disease and any physical condition that would prevent the caregiver from being able to provide foster care to a resident. The physician's report must be based on an examination of the individual within the 12 months before application for licensure. Caregivers shall provide the commissioner with a physician's report at least once every five years after initial licensure.

C. Operators, caregivers, and household members must agree to disclose the arrest, conviction, and criminal history information specified in subpart 3.

D. Operators, caregivers, and household members must not have a conviction of, have admitted to, or there be substantial evidence indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557.

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction or admission of any crime listed in Minnesota Statutes, sections 152.09, 152.096, 152.097, 609.185 to 609.345, 609.365, 609.377, 609.378, 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, 609.561 to 609.563, 609.582, 609.59, 609.625, 609.63, 609.687, 609.71, 609.713, 609.821, 617.23, 617.246, other than those listed in item D, or the same or similar crime listed in the laws of another state or of the United States or of another country.

F. Caregivers must not have had parental rights terminated under Minnesota Statutes, section 260.221, paragraph (b), within the past five years.

G. Operators and caregivers must not have a diagnosis of mental retardation or a related condition and be receiving services under parts 9525.0015 to 9525.0145.

H. Caregivers and household members must not have a mental illness or condition as diagnosed by a psychiatrist or licensed psychologist that has documented behaviors that the commissioner determines would jeopardize the health, rights, or safety of residents. Past history of a mental illness or

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condition may be considered. "Mental illness" means the inability to interpret reality realistically and the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation.

I. Caregivers and household members must not abuse prescription drugs or use controlled substances as named in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the health, rights, or safety of residents.

Subp. 5. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term of the adult foster home, a physical, mental health, chemical dependency, or criminal history evaluation of the operator, caregiver, or household member if the commissioner has reasonable cause to believe that any of the qualifications or requirements in items A to I have not been met or that the operator or any caregiver cannot care for a resident. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation.

Subp. 6. **Zoning.** At least 30 days before the initial license issuance date, the commissioner shall notify the local zoning administrator in the jurisdiction where the residence is located of the license application.

Subp. 7. **Period of licensure; nontransfer.** A license shall be issued by the commissioner for up to one year when the applicant complies with parts 9555.6105 to 9555.6265. A license is not transferable to another operator or residence.

Subp. 8. **Provisional license.** An applicant for initial licensure may be granted a provisional license by the commissioner for up to one year if the laws and rules cannot be complied with immediately, and if the deviations from parts 9555.6105 to 9555.6265 do not threaten the health, rights, or safety of a resident. All deviations must be corrected within the time specified by the commissioner but not exceeding one year. Failure to correct deviations within the stated time

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shall be cause for revocation of a license or a fine or both.

Subp. 9. **Variance procedure.** An applicant or operator may request a variance from compliance with parts 9555.5105 and 9555.6105 to 9555.6265. A request for a variance must comply with and be handled according to the following procedures:

A. An applicant or operator must submit a written request for a variance to the commissioner. The request must include:

(1) the sections or parts 9555.6105 to 9555.6275 with which the applicant or operator cannot comply;

(2) the reasons why the applicant or operator needs to depart from the specified sections;

(3) the period for which the applicant or operator requests a variance; and

(4) the specific equivalent alternative measures that the applicant or operator will provide so the health, rights, and safety of residents are ensured if the variance is granted.

B. An applicant or operator must submit to the commissioner written approval from a fire marshal of the alternative measures identified to ensure the safety of residents when a variance of part 9555.6125, subpart 2, is requested.

C. An applicant or operator must submit to the commissioner written approval from a health authority of the alternative measures identified to ensure the health of residents when a variance of parts 9555.6225 and 9555.6215 is requested.

Subp. 10. **Variance standard.** A variance may be granted if:

A. the variance is submitted in accordance with subpart 9;

B. the commissioner does not have reasonable cause to believe the health, rights, or safety of the residents will be threatened;

C. the variance would not be contrary to a standard required by Minnesota Statutes; and

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D. a request for variance to subpart 4, item E, has clear and convincing evidence presented by the operator, caregiver, or household member that no threat or harm whatsoever will result to the residents due to the granting of the variance. The commissioner shall consider the nature of the crime committed and amount of time which has elapsed without a repeat of the crime.

Subp. 11. **License terms.** A license, whether regular or provisional, must show:

A. the licensed capacity of the adult foster home;

B. the expiration date of the license and address of the residence;

C. the name and address of the operator;

D. that the operator is licensed under parts 9555.5105 and 9555.6105 to 9555.6265; and

E. the provisional status of the license, if applicable.

Subp. 12. **Change in license terms.** The following shall apply to changes in the terms of licensure:

A. The license issued must not be transferred to another operator, building, or address.

B. The operator must notify the commissioner and the studies in part 9555.6125 must be completed:

(1) before the operator moves the residence to another building or address;

(2) when there is an addition of any adult or child who is or will be a roomer, resident, household member, or caregiver;

(3) when the operator makes structural changes to the residence that require a building permit from the local jurisdiction; or

(4) before the operator changes, sells, or transfers ownership or responsibility for the operation of the residence.

Subp. 13. **License renewal.** Before the expiration of a license, the commissioner must conduct a study of the operator

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and an inspection of the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265 at least once every 12 months to determine whether a new license shall be issued.

9555.6145 NEGATIVE LICENSING ACTIONS.

Subpart 1. **Definition.** For the purposes of this part, "negative licensing action" means denial of application for licensure, revocation, probation, suspension, or immediate suspension of an existing license.

Subp. 2. **Procedures.** In accordance with Minnesota Statutes, section 245.801, failure to comply with parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure is grounds for a negative licensing action. If the local agency recommends a negative licensing action, the local agency shall notify the department and the department shall determine if the standards in parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall follow the procedures in Minnesota Statutes, section 245.801, and notify the applicant or operator by certified mail, unless personal service is required by subpart 7. The notice of negative licensing action must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed negative licensing action. The notice of negative licensing action must inform the applicant or operator of the right to appeal the decision. The applicant or operator shall have an opportunity for a hearing under Minnesota Statutes, sections 14.57 to 14.70.

Subp. 3. **Denial.** If the commissioner denies an application for licensure, the applicant must tell the commissioner of the applicant's appeal of the decision within 20 days after receipt of the notice of denial.

Subp. 4. **Revocation, probation, or suspension.** If the commissioner revokes a license, makes a license probationary, or suspends a license, the operator must tell the commissioner of the operator's appeal of the decision within ten days after

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receipt of the notice of revocation, probation, or suspension.

Subp. 5. **Immediate suspension.** If the commissioner finds that the health, safety, or rights of the residents in care are in imminent danger, the commissioner shall immediately suspend the license and notify the local agency to remove the residents. The operator shall be notified by personal service and must tell the commissioner of the operator's appeal of the decision within five days after receipt of the notice of immediate suspension. The appeal does not stay the decision of the commissioner to immediately suspend the license.

Subp. 6. **Correction orders and fines.** If the commissioner finds that the operator does not comply with parts 9555.5105 and 9555.6105 to 9555.6265, the commissioner shall issue a correction order under Minnesota Statutes, section 245.805, and the operator may be subject to a fine for each uncorrected deficiency.

Subp. 7. **Notice of negative licensing action.** At the time the commissioner notifies the operator of a proposed negative licensing action, the commissioner shall notify residents and residents' legal representatives of the proposed negative licensing action and of the operator's right to appeal. The notification procedures in Minnesota Statutes, section 626.557, subdivision 10, paragraph (a), shall be followed in situations alleging abuse or neglect of residents.

Subp. 8. **Reapplication after revocation.** An operator whose license has been revoked shall not be granted a new license for five years following revocation and must reapply for licensure to determine current compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

9555.6155 RECORD ON THE RESIDENCE.

A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:

A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1;

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B. the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C. the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;

D. any written inspection reports from a health authority or building official;

E. the commissioner's initial and any renewal licensing studies and inspections;

F. any comments of the operator or provider about the licensing studies and inspections;

G. written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H. a list of residents currently in the residence;

I. a list of residents who have been in the residence in the past five years;

J. documentation of any variances to parts 9555.6105 to 9555.6265;

K. arrest, conviction, and criminal history records on the operator, caregivers, and household members, and caregivers;

L. if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125, subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M. a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N. a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O. a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

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9555.6165 CAPACITY.

Subpart 1. **Licensed capacity.** A maximum of four residents may live in the adult foster home at one time.

Subp. 2. **Capacity of roomers and residents.** The total number of roomers and residents in the adult foster home at one time shall not exceed four.

9555.6167 INDIVIDUAL RESIDENT PLACEMENT AGREEMENT.

The operator shall ensure that an individual resident placement agreement as defined in part 9555.5105, subpart 19, is developed, signed, and on file for the resident who is not receiving community social services under parts 9550.0010 to 9550.0092, and who does not have an individual service plan developed under part 9525.0075 or 9550.0090.

9555.6175 COOPERATE AND REPORT TO AGENCIES.

Subpart 1. **Cooperating with service agency.** The operator shall cooperate with the service agency in carrying out the provisions of the individual service plan for each resident who has one and in developing the individual resident placement agreement.

Subp. 2. **Abuse and neglect reporting.** Caregivers shall immediately report any suspected abuse or neglect of a resident to the commissioner, local agency, local police, or county sheriff as required by the Vulnerable Adults Act.

Subp. 3. **Reporting to local agency.** The operator shall ensure that the local agency is told:

A. within five calendar days of any change in the regular membership of the household or caregiver's employment status;

B. within 24 hours after the occurrence of a fire that causes damage to the residence or requires the services of a fire department or the onset of any changes or repairs to the residence that require a building permit;

C. immediately after the occurrence of any serious injury or death of a resident. "Serious injury" means an injury

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that is treated by a physician;

D. within 24 hours of a change in health status of a caregiver that could affect the ability of the caregiver to care for a resident;

E. immediately upon diagnosis by a physician or health authority of a reportable communicable disease, as specified in parts 4605.7000 to 4605.7800, of any resident, caregiver, or household member;

F. at least 30 days before the involuntary discharge of a resident who does not have an individual service plan; and

G. within seven days after the transfer or voluntary discharge of a resident who does not have an individual service plan.

Subp. 4. **Reporting to service agency.** The operator shall ensure that the service agency is told:

A. within five days if a resident shows a need for additional community health or social services; and

B. at least 30 days before the involuntary discharge of a resident. When a resident wants to voluntarily leave the adult foster home, the operator must notify the service agency within three days. In this instance, the resident's legal representative, if any, shall also be notified by the service agency.

9555.6185 FOSTER CARE TRAINING.

Subpart 1. **Orientation.** Operators and caregivers must complete the orientation provided by the local agency in part 9555.5505 prior to placement of the first resident following initial licensure.

Subp. 2. **Training requirements.** In addition to the orientation training, caregivers must complete the training designed to meet the needs of the residents in care in any of the subject areas and in the amount specified in subpart 4. The operator must ensure that a record of training completed is maintained.

A. Caregivers with zero to five years of licensure or

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experience as an adult foster home caregiver must complete 12 hours training a year.

B. Caregivers with six or more years of licensure or experience as an adult foster home caregiver must complete six hours training a year.

C. Caregivers who provide services according to a contract between the operator and the department or service must comply with any additional training requirements stated in the terms of the contract.

Subp. 3. **Exceptions.** The following persons are exempt from the training requirements in this part:

A. caregivers providing not more than 30 cumulative days of foster care in a 12-month period; and

B. caregivers providing foster care eight hours or less a week.

Subp. 4. **Training subjects.** Training subjects shall be selected from the following areas:

A. communication skills;

B. roles and relationships in foster care;

C. community services for adults;

D. constructive problem solving;

E. cultural differences;

F. basic first aid and cardiopulmonary resuscitation (CPR);

G. home safety;

H. self-esteem;

I. medication assistance;

J. human sexuality;

K. death, dying, separation, and grieving;

L. aging process;

M. recreation and leisure time;

N. nutrition;

O. mental health;

P. mental retardation;

Q. physical disabilities;

R. chemical dependency;

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S. abuse and neglect;

T. stress management;

U. assertiveness;

V. eating disorders;

W. behavior problem solving;

X. money management;

Y. data privacy;

Z. living skills training; and

AA. other areas that the local agency documents as relevant to adult foster care.

9555.6195 PROHIBITIONS AGAINST ABUSE, NEGLECT, AND DISCRIMINATION.

Subpart 1. **Protection from neglect and abuse.** The operator shall ensure that residents are protected from abuse and neglect through compliance with the Vulnerable Adults Act and parts 9555.8000 to 9555.8500.

Subp. 2. **Nondiscrimination.** Under Minnesota Statutes, section 363.03, subdivision 3, the operator must comply with the nondiscrimination provisions applicable to public accommodations.

9555.6205 PHYSICAL ENVIRONMMENT.

Subpart 1. **Residential occupancy.** The residence must meet the definition of a dwelling unit in a residential occupancy and be free of any plumbing, electrical, ventilation, mechanical or structural hazard that would threaten the health or safety of a resident.

Subp. 2. **Living room access.** Each resident must have use of and free access to the living room.

Subp. 3. **Dining area.** Each residence shall have a dining area furnished for group eating that is simultaneously accessible to residents and household members.

Subp. 4. **Resident bedrooms.** Residents must mutually consent to share a bedroom with another resident. No more than two residents may share one bedroom.

A. Resident bedrooms must meet the following criteria:

(1) A single-occupancy bedroom must have at least

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80 square feet of floor space with a 7-1/2 foot ceiling. A double-occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot ceiling.

(2) Bedrooms must be separated from halls, corridors, and other habitable rooms by floor-to-ceiling walls containing no openings except doorways and must not serve as a corridor to another room used in daily living.

(3) A resident's personal possessions and items for the resident's own use are the only items permitted to be stored in a resident's bedroom.

(4) When possible, a resident shall be allowed to have items of furniture that he or she personally owns in the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or another resident's use of the bedroom.

B. Each resident shall be provided with the following furnishings:

(1) A separate, adult-size single bed or larger with a clean mattress in good repair.

(2) Clean bedding appropriate for the season for each resident.

(3) An individual dresser and closet for storage of personal possessions and clothing.

(4) A mirror for grooming.

9555.6215 WATER AND FOOD.

Subpart 1. **Water.** Water from privately-owned wells must be tested annually by a Minnesota Health Department-certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. Retesting and corrective measures may be required by the health authority if results exceed state water standards in chapter 4720.

Subp. 2. **Food.** Food served must meet any special dietary needs of a resident as prescribed by the resident's physician or dietitian. Three nutritionally balanced meals a day must be served or made available to residents, and nutritious snacks

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must be available between meals.

Subp. 3. **Food safety.** Food must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

9555.6225 SANITATION AND HEALTH.

Subpart 1. **Sanitation and cleanliness.** The residence must be clean, as specified in part 4625.0100, subpart 2, and free from accumulations of dirt, rubbish, peeling paint, vermin, or insects.

Subp. 2. **Toxic substances.** Chemicals, detergents, and other toxic substances must not be stored with food products.

Subp. 3. **Physical examination of resident.** Each resident must be examined by a physician no more than 30 days before or within three days after placement in the adult foster home to ensure that the resident is free of the reportable communicable diseases named in parts 4605.7000 to 4605.7800. Transfer records from a health care facility licensed by the Department of Health may be substituted for this requirement.

Subp. 4. **First-aid supplies.** The operator shall ensure that the residence is equipped with accessible first-aid supplies including bandages, sterile compresses, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, adhesive tape, and first-aid manual.

Subp. 5. **Emergencies.** The operator shall be prepared for emergencies and ensure that:

A. a noncoin-operated telephone and an operable flashlight is located within the residence;

B. the phone numbers of each resident's representative, physician, and dentist are readily available;

C. phone numbers of the local fire department, police department, and an emergency transportation service are posted by the telephone;

D. prior arrangements are made for a substitute caregiver who meets the qualifications in part 9555.6125, subpart 4, to provide care during emergencies;

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E. each resident is informed of a designated area within the residence where the resident shall go for cover during severe storms or tornadoes;

F. fire drills are conducted at least once every three months;

G. a written fire escape plan and a log of quarterly fire drills is on file in the residence; and

H. the fire escape plan is approved by the fire marshal and specifies emergency phone numbers, a place to meet outdoors for roll call, smoke detector and fire extinguisher locations, plans for quarterly fire and tornado drill sessions, and escape routes to the outside from the levels used by residents. In buildings with three or more dwelling units, enclosed exit stairs must be indicated. There must be an emergency escape plan for each resident.

Subp. 6. **Individual personal articles.** Individual clean bed linens, towels, and wash cloths must be available for each resident.

Subp. 7. **Pets.** Pets housed within the residence shall be maintained in good health. The operator shall ensure that the resident and the resident's representative is notified before admission of the presence of pets in the residence.

Subp. 8. **Resident's medication.** Caregivers may administer medication to a resident who is not capable of self-administering medication only if the operator ensures that the procedures in items A to G are followed.

A. The operator shall get a written statement from the resident's physician stating the name of the medication prescribed and whether the resident is capable of taking the medication without assistance.

B. The operator shall get written permission from the resident or the resident's legal representative to administer the medication.

C. A resident who is not capable of self-administering the medication may be administered the medication by a caregiver in accordance with the written

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instructions from the resident's physician if the written permission has been obtained from the resident or the resident's legal representative. A prescription label is sufficient to constitute written instructions from a physician.

D. Each resident receiving medication assistance must have a medication record containing:

(1) the information on the prescription label;

(2) the consequences if the medication is not taken as directed;

(3) the adverse reactions to the medication that must be reported to the resident's physician;

(4) instruction from the resident's physician indicating when the resident's physician must be notified if the medication is not taken as prescribed;

(5) notation of when a medication is started, changed, or discontinued; and

(6) notation of any reports made to the resident's physician whenever the resident does not take medication as prescribed or there are any adverse medication reactions.

E. A caregiver must report to the resident's physician and legal representative:

(1) any adverse medication reaction as specified in item D, subitem (3); and

(2) the resident's refusal or failure to take medication as prescribed and in accordance with the physician's instructions in item D, subitem (4).

F. A caregiver must immediately report to the local agency whenever the resident's physician is notified because medication is not taken as prescribed and the physician determines that the refusal or failure to take medication as prescribed creates an immediate threat to the resident's health or safety or the health or safety of other residents or household members.

G. A caregiver shall not give injectable medication unless:

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(1) the caregiver is a registered nurse or licensed practical nurse with a current Minnesota license, is authorized to do so in writing by the resident's physician, and is covered by professional liability insurance; or

(2) there is an agreement signed by the caregiver, the resident's physician, the resident, and the resident's legal representative specifying what injections may be given, when, how, and that the physician shall retain responsibility for the caregiver's giving the injections. A copy of the agreement must be placed in the resident's personal record.

Subp. 9. **Storage of medication.** Schedule II controlled substances in the residence that are named in Minnesota Statutes, section 152.02, subdivision 3, must be stored in a locked storage area permitting access only by residents and caregivers authorized to administer the medication as named in subpart 8.

Subp. 10. **Weapons.** Weapons and ammunition must be stored separately in locked areas that are inaccessible to residents and prevent contents from being visible to residents. "Weapons" means firearms and other instruments or devices designed for and capable of producing bodily harm.

9555.6235 ADULT FOSTER HOME PROGRAM.

The operator shall develop and implement a commissioner-approved written plan that allows residents to share in the privileges and responsibilities of the adult foster home and includes the information in items A to C.

A. The type of functionally impaired adults to be served.

B. The foster care that will be available to residents within the adult foster home including the provision of:

(1) lodging;

(2) food;

(3) protection;

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(4) personal care;

(5) household and living skills assistance or training;

(6) opportunities to participate in community, recreation and religious activities, and events of the resident's choosing;

(7) opportunities for the resident to have contact with family and friends;

(8) assistance safeguarding cash resources, such as banking, reporting the resident's earnings to appropriate agencies, keeping records of financial information (checks issued and received), and accounting for the resident's funds controlled by the operator;

(9) supervision;

(10) transportation;

(11) assistance with the provision of other community, social, or health services as named in the resident's individual service plan, if any; and

(12) medication assistance.

C. A program abuse prevention plan with specific measures to be taken to minimize the risk of abuse to residents under part 9555.8200.

9555.6245 PERSONAL RECORD OF RESIDENT IN FOSTER CARE.

Subpart 1. **General provisions.** The operator shall ensure that an individual record is maintained in the adult foster home on each resident.

Subp. 2. **Demographic information.** The record must include the resident's name, birthdate, sex, race, marital status, next of kin, Social Security number, medical assistance number, name, address, and phone number of an emergency contact or the resident's legal representative, admission date, place or address from which the resident was admitted, date of leaving the residence, and place or address to which the resident has moved.

Subp. 3. **Medical information.** The record must contain the

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following medical information:

A. the name, address, and phone number of the resident's physician, dentist, clinic, and other sources of medical care;

B. a health history and information on any health risks, allergies, currently prescribed medication, and documentation of the physical examination or transfer record required in part 9555.6225, subpart 3;

C. any emergency treatment needed or provided while the resident resides in the adult foster home; and

D. the medication record required under part 9555.6225, subpart 8.

Subp. 4. **Cash resource information.** The record must include an accounting of any personal funds and charges against those funds if the operator or a caregiver gives cash resource assistance to a resident.

Subp. 5. **Incident reports.** The record must contain all incident reports. Incident reports must be written when a resident requires emergency care, when a police report of an incident involving a resident has been made, or when a complaint has been filed under the Vulnerable Adults Act. Incident reports must be entered into the resident's personal record by the provider within two hours after knowledge of the occurrence.

Subp. 6. **Individual abuse prevention plan.** The record must contain an individual abuse prevention plan for a resident developed in compliance with part 9555.8300.

Subp. 7. **Individual service plan.** The record must contain the service agency's initial and current individual service plan for a resident.

Subp. 8. **Individual resident placement agreement.** The record must contain the initial individual resident placement agreement for a resident and the annual update of the agreement.

Subp. 9. **Individual mobility check list.** The record must contain an individual mobility check list for a resident as specified in part 9555.5605, subpart 2.

Subp. 10. **Transfer or discharge.** When a resident is

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transferred or discharged for any reason a note must be made in the resident's record showing the date of discharge, forwarding address, and reason for discharge or transfer.

Subp. 11. **Record storage.** The personal record on a resident must be stored by the operator for four years after the resident has been discharged from the residence.

9555.6255 RESIDENT'S RIGHTS.

Subpart 1. **Information about rights.** The operator shall ensure that a resident and a resident's legal representative are given, at admission:

A. an explanation and copy of the resident's rights specified in subparts 2 to 7;

B. a written summary of the Vulnerable Adults Act prepared by the department; and

C. the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

Subp. 2. **Right to use telephone.** A resident has the right to daily, private access to and use of a noncoin-operated telephone for local calls and long-distance calls made collect or paid for by the resident.

Subp. 3. **Right to receive and send mail.** A resident has the right to receive and send uncensored, unopened mail.

Subp. 4. **Right to privacy.** A resident has the right to personal privacy and privacy for visits from others, and the respect of individuality and cultural identity. Privacy must be respected by operators, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance as noted in the resident's individual record.

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Subp. 5. **Right to use personal property.** A resident has the right to keep and use personal clothing and possessions as space permits, unless to do so would infringe on the health,

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safety, or rights of other residents or household members.

Subp. 6. **Right to associate.** A resident has the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of other residents or household members.

Subp. 7. **Married residents.** Married residents have the right to privacy for visits by their spouses, and, if both spouses are residents of the adult foster home, they have the right to share a bedroom and bed.

9555.6265 SAFEGUARDS FOR CASH RESOURCES ENTRUSTED TO OPERATOR.

Subpart 1. **Determination.** If the social worker determines that a resident needs and wants assistance safeguarding cash resources, any cash resources entrusted to the operator must be handled in accordance with this part.

Subp. 2. **Procedures for handling cash resources.** If a resident entrusts cash resources to the operator, the procedures in items A to F must be used.

A. The resident and the resident's legal representative shall be given a receipt by the operator. Receipts must be signed by the resident or the resident's legal representative.

B. The operator shall not be entrusted with cash resources in excess of $300 plus resources sufficient to meet one month's cost of care.

C. The resident or resident's legal representative shall have access to the written records involving the resident's funds.

D. The operator shall provide the resident or resident's legal representative with a written quarterly accounting of financial transactions made on behalf of the resident.

E. Upon the death of a resident, any cash resources of the resident must be given to the executor or administrator of the estate or, if none has been appointed, to the resident's

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OFFICE BY:

legal representative in exchange for an itemized receipt.

REPEALER. Minnesota Rules, parts 9555.5100, 9555.5200, 9555.5300, and 9555.5400 are repealed five days after the notice of adoption of parts 9555.5105 to 9555.5705 is published in the State Register. Minnesota Rules, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed five days after the notice of adoption of parts 9555.6105 to 9555.6265 is published in the State Register, except as parts 9555.6100 to 9555.6400 apply to operators of adult foster homes providing care and approved by the county board under part 9555.6400 on the date of adoption of parts 9555.6105 to 9555.6265. As to the operators of those adult foster homes, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed one year after the notice of adoption of parts 9555.6105 to 9555.6265 is published in the State Register.

EFFECTIVE DATE. Minnesota Rules, parts 9555.5105 to 9555.6265 take effect five days after the notice of adoption is published in the State Register, except for the operators of those adult foster homes providing care and approved by a county welfare board under part 9555.6400 on that date. As to the operators of those adult foster homes, parts 9555.6105 to 9555.6265 take effect six months after the notice of adoption is published in the State Register or on the day after an operator's current period of approval under part 9555.6400 expires, whichever is later.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9555

The attached rules are approved for publication in the State Register

Susan E. Quayle

Susan E. Quayle
Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.[1] Authority to adopt the proposed licensing rules, parts 9555.5105 and 9555.6105 to 9555.6265 is contained in Minnesota Statutes 245.782, subdivisions 2, 6 and 14; 245.783, subdivision 1 ; and 245.802, subdivision 1.

Authority to adopt parts 9555.5105 to 9555.5705 is contained in Minnesota Statutes, sections 256.01, subdivision 4(3); 256E.03, subdivision 2(c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, chapter 413, section 3 to be codified as 256E.08, subdivision 1(1), (2), (3), (4), and (6); and 393.07, subdivision 2.

Persons interested in these rules shall have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part of subpart of the rules and comment is encouraged.[2] Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on a rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held.[4] Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.[6] If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.[7] PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, HEARINGS WILL BE HELD ON NOVEMBER 13 AND NOVEMBER 14, 1986, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

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

Jane Nelson [5]
Rulemaking Division
Department of Human Services
658 Cedar Street, Fourth Floor
St. Paul, MN 55155
Telephone 612/297-1217

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 5, 1986.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

Minnesota Rules, parts 9555.5105 to 9555.6265 govern the delivery and administration of foster care services to persons who are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

Part 9555.5105 defines terms that are used throughout parts 9555.5105 to 9555.6265.

Part 9555.5205 indicates that parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to prospective residents by the county board.

Part 9555.5305 indicates the purpose is to ensure proper assessment and notification of the availability of services.

Parts 9555.5405, 9555.5415, 9555.5505, 9555.5605, and 9555.5705 establish standards for foster home development, licensing assistance from the local agency, local agency orientation and training assistance, the assessment process and provision of adult foster care services to residents in adult foster homes.

Parts 9555.6105 to 9555.6265 specify the licensure standards for foster home operators and the licensing process for applicants. These parts set standards for the applicability and purpose of licensing, the application process, criteria and procedures for the study of the applicant and inspection of the residence, variances, negative licensing actions, resident's records, capacity limits, individual resident placement agreements, reporting, training, physical environment, health, water and food, program, resident records, resident rights, and cash resource assistance.

A copy of the proposed rules is available upon request for your review from:

Gwen Wildermuth
Social Services Division
Centennial Office Building, Fourth Floor
658 Cedar Street
St. Paul, MN 55155
Telephone 612/296-0311

A copy of the proposed rules may be viewed at the Department and any of the county welfare or human service agencies in the state of Minnesota.

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

The Department estimates that the total cost to all local public bodies will total less than $100,000 to implement the proposed rules in either of the first two years following the rules adoption. A copy of the fiscal note explaining the rules costs is available from Gwen Wildermuth.

If no hearing is required upon adoption of the proposed rules, the rules and the required supporting documents will be delivered to the Attorney General Administration for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Jane Nelson.

Date: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

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RECEIVED
OCT 13 1986
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 5 of the State Office Building, 435 Park Avenue, St. Paul, Minnesota 55155, on November 13; and on November 14, 1986, in the Auditorium of the Brainerd Regional Human Services Center, Oak Street, Brainerd, Minnesota 56401. The hearings will commence at 9 a.m. and continue until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Richard Luis, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7610, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the Department and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the Department may indicate in writing whether there are amendments suggested by other persons which the Department is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9555.5105 to 9555.6265 govern the delivery and administration of foster care services to persons who are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

Part 9555.5105 defines terms that are used throughout parts 9555.5105 to 9555.6265.

Part 9555.5205 indicates that parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to prospective residents by the county board.

Part 9555.5305 indicates the purpose is to ensure proper assessment and notification of the availability of services.

Parts 9555.5405, 9555.5415, 9555.5505, 9555.5605, and 9555.5705 establish standards for foster home development, licensing assistance from the local agency, local agency orientation and training assistance, the assessment process and provision of adult foster care services to residents in adult foster homes.

Parts 9555.6105 to 9555.6265 specify the licensure standards for foster home operators and the licensing process for applicants. These parts set standards for the applicability and purpose of licensing, the application process, criteria and procedures for the study of the applicant and inspection of the residence, variances, negative licensing actions, resident's records, capacity limits, individual resident placement agreements, reporting, training, physical environment, health, water and food, program, resident records, resident rights, and cash resource assistance.

Authority to adopt the proposed licensing rules, parts 9555.5105 and 9555.6105 to 9555.6265 is contained in Minnesota Statutes 245.782, subdivisions 2, 6 and 14; 245.783, subdivision 1; and 245.802, subdivision 1.

Authority to adopt parts 9555.5105 to 9555.5705 is contained in Minnesota Statutes, sections 256.01, subdivision 4(3); 256E.03, subdivision 2(c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, chapter 413, section 3 to be codified as 256E.08, subdivision 1(1), (2), (3), (4), and (6); and 393.07, subdivision 2.

The fiscal note prepared by the Department estimates that the proposed rules will require less than $100,000 in increased spending from state and local agencies over the next two years. A copy of the note is available from Gwen Wildermuth.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Gwen Wildermuth, Social Services Division, Fourth Floor, Centennial Office Building, 658 Cedar, St. Paul, Minnesota, 55155, 612/296-0311.

A copy of the proposed rule may be viewed at the Department and at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Gwen Wildermuth.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

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

Dated: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

SFTH/1.0

Exhibit N

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES 9/13/86

In the matter of Proposed Rules of the Department of Human Services governing the Administration of Adult Foster Care Services and Licensure of Adult Foster Homes, parts 9555.5105 to 9555.6265

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION AND BACKGROUND

Proposed parts 9555.5105 to 9555.5705 establish standards for county boards administering adult foster care services and assisting with the licensure of homes to ensure that each resident or each prospective resident of an adult foster home receives an assessment of need for adult foster care and is offered adult foster care services.

Proposed parts 9555.5105 and 9555.6105 to 9555.6265 establish standards for licensing adult foster homes. Licensing entitles an operator to provide care for up to four functionally impaired adults on a regular basis, 24 hours a day.

Authority to adopt the proposed licensing rules, parts 9555.5105 and 9555.6105 to 9555.6265 is contained in Minnesota Statutes 245.782, subdivisions 2, 6 and 14; 245.783, subdivision 1; and 245.802, subdivision 1.

Authority to adopt parts 9555.5105 to 9555.5705 is contained in Minnesota Statutes, sections 256.01, subdivision 4(3); 256E.03, subdivision 2(c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, chapter 413, section 3 to be codified as 256E.08, subdivision 1(1), (2), (3), (4), and (6); and 393.07, subdivision 2.

Adult Foster Care History

Much of the early history of the adult foster home movement is legendary. Most experts place the origin between 600 A.D. and 700 A.D. While the exact roots of adult foster homes are somewhat sketchy, the accepted location of the beginnings was Gheel, Belgium. Pilgrims came to Gheel to worship at the Shrine of St. Dymphna to be cured of their "possession by evil spirits" which was the definition of "mental illness" at that time. Citizens of the community took in pilgrims under the supervision of the Catholic Church. In 1867, Scotland began to compete with Gheel as a leader in the adult foster home movement. Massachusetts placed its first mentally ill patients in adult foster homes in 1882, followed by Rhode Island in 1914.

Psychiatrists began to praise the therapeutic potential of adult foster homes in the 1930s and 1940s. While not the first organization to use adult homes in the United States, the Veteran's Administration has been one of the heaviest users since officially establishing a uniform policy for adult foster homes in 1951. As far back as 1948, the St. Cloud Veterans Administration Hospital used adult foster homes. This organization has much precise data on its program which has helped bring a sense of order to the adult foster home movement.

In the 1950s professionals concerned with persons with mental retardation began to indicate that institutionalization was becoming less acceptable for those people. In 1959 Brown, Wendle, and Stewart wrote in the American Journal of Mental Deficiency that foster home placement was a logical extension of institutional care for persons with mental retardation. [1.] The widespread use of tranquilizers and antidepressive drugs in the 1950s had a strong impact on communities being able to tolerate the undesirable symptoms of the mentally ill and promoted the use of adult foster homes for those persons.

In 1965, author H.H. Apetekar stated in the Encyclopedia of Social Work that adult foster homes serve essentially three groups of people -- mentally ill adults, mentally retarded adults, and the elderly. [2.] This is one of the first references to adult foster care for the elderly in literature. By the 1970s, Schrader and Elms, in their book Guidelines for Family Care Operators, indicated their positive impressions of adult foster homes by stating: "This type of care might well be called the 'Cinderella' of the mental health field, for it has been so sadly neglected as a resource and its potential has never been fully developed." [3.] The authors also strongly recommended uniform licensing procedures.

Licensing

The federal government provided impetus for the proliferation of licensed adult foster homes in most states with the following policy:

> Effective October 1, 1977. . . state or local authorities [will] establish, maintain, and insure the enforcement of standards for . . . foster homes . . . in which . . . a significant number of recipients of Supplemental Security Income. . . benefits residents are likely to reside. (Federal Register, January 31, 1978, p. 4020). [4.]

In 1980, 12 states licensed adult foster homes. No recent figures are available on how many states currently have adult foster home licensure standards, but within the last year, the Department has had numerous inquiries from other states requesting licensing information, thus indicating activity in the area. It should be mentioned that neither the name for adult foster homes, nor the definition, are uniform across the county. Adult foster homes are variously called "personal care homes," "family care homes," "supervisory care homes," and "family life homes," to name a few. While some state standards allow no more than three residents in a home, some allow as many as 20 residents.

The Department initially drafted a rule for county certification of adult foster homes in 1969. It was adopted in 1971 and became known as Rule 51. Under part 9555.6400 county social service agencies are responsible for "approving" homes within their jurisdiction. Part 9555.6300 provides limited safeguards. County agencies soon became concerned about the need for more extensive standards to protect impaired residents in these homes. In 1983, the Department commissioned a study by the Urban Institute which recommended clearer, more specific rule standards. [5.]

Federally-allowed medical assistance waivers for the elderly and mentally retarded also impacted state licensure of adult foster homes. [6.] Alter-

natives to institutionalization were needed. It followed that standards were needed to assure quality of care and provide protection for vulnerable adults placed in various program settings and living arrangements. These influences eventually resulted in amendments to the Public Welfare Licensing Act in 1984 to require state licensure of adult foster homes.

Minnesota currently has adult foster homes certified in 60 of the 87 counties. There are approximately 825 adults in these homes. The use of adult foster homes has advanced from the three traditional target population groups - mentally ill, mentally retarded, and frail elderly - to more creative configurations for adult living. They now also serve the chemically dependent, physically handicapped, and young adults with children. Adult foster homes are used as adult shelters, safe homes for battered women, and as respite care homes. (Exhibit V)

Rule Development Procedure

The Notice of Solicitation for parts 9555.5105 and 9555.6105 to 9555.6265 was published in the State Register on May 13, 1985 (Exhibit A). The Notice of Solicitation for parts 9555.5105 to 9555.5705 was published in the State Register on February 24, 1986. (Exhibit C.)

In June 1985 a task force was convened to propose licensure standards for adult foster homes. Task force composition was drawn from the 87 county agencies, the foster home provider community, a foster home provider organization, consumers, advocacy groups representing target populations using adult foster homes, experts on health and safety, and private agencies (Exhibit B). Task force members met on June 5, June 28, July 2, July 8, July 9, July 10, July 23, July 25, August 22, August 28, September 3, and September 4 or 1985. (Minutes of meetings contained in Exhibit D.)

On February 28, 1986, a task force was convened to begin review of rule parts 9555.5105 to 9555.5705 governing the administration of social services for adults in foster care. (Members of the adult foster care service task force are contained in Exhibit F. Minutes of the February 28 meeting of the adult foster care task force are contained in Exhibit E.) The Department then made the decision to combine the rule parts governing licensure and services and, thus, combined the task forces for the remaining meetings. (Minutes of the combined task force meetings are contained in Exhibit G.)

9555.5105 DEFINITIONS

This part defines words and phrases that have a meaning specific to parts 9555.5105 to 9555.6275, that may have several possible interpretations or that need exact definition to be consistent with statute and other Department rules.

Subpart 1. Scope. This provision is necessary to clarify that the definitions apply to the entire sequence of parts 9555.5105 to 9555.6265.

Subpart 2. Adult. This provision is necessary to define to differentiate an adult foster home from a child foster family home. The definition given is reasonable because it is consistent with the definition of "adult"

in Minnesota Statutes, section 645.451 and with the definition in Minnesota Statutes, section 245.782, subdivision 3, which specifies that a child is anyone who has not reached his or her 18th birthday.

Subpart 3. Adult foster care. This definition is necessary to differentiate the type and level of care provided to a functionally impaired adult within the adult foster home from other community-based care or residential living situations. It is necessary to designate the proper level of care necessary for the licensure of an operator and to assure the proper provision of service to residents.

Adult foster care is viewed as a "home" environment where basic custodial, domicilliary, or maintenance care is provided by persons who do not have, or are not required to have, professional licensure, training, or certification. This does not preclude a person with professional training, licensure or certification, such as a nurse or qualified mental retardation professional, from licensure as an operator or from employment as a caregiver. Nor does it prohibit additional licensure and overlap of supportive living services in the residence or the provision of other community-based services such as home health care services within the residence.

Adult foster care minimally means a safe, clean, protected, "home-like" place to eat, sleep and socialize with someone available for supervision. Burte, Harde, and Gornish in Services to Disabled Adults (p. 49) note that "domicilliary care" is usually defined as the long-term provision of a room or apartment, or room and board, which includes personal care, supervision, and/or oversight." "Foster care," Burt et. al. say, is perceived by counties in Minnesota as a "normal living environment without 'curative' pressures. Training for the provider involves coping technics, not counseling" (p. 119).

The definition is reasonable because it is consistent with the concept described in currently adopted part 9555.6200 which states that a foster home is one in which "regular household care is provided." It is described as a setting for persons who have "difficulty with or are unable to do household tasks and yet are not considered to be in need of nursing home care."

The definition is further reasonable because it is consistent with the general view of adult foster care in other states. Wisconsin describes "adult family homes" as:

> A family living arrangement for one or two persons which provide the structure and social support needed to maximize physical and emotional functioning of adults who can no longer be maintained in their own home through community resources. It is characterized by adequate living space, cleanliness, appropriate heating, lighting, ventilation, and safety precautions, opportunity for privacy, but also for activity and socialization, and nutritious food carefully prepared and attractively served on a regular schedule of family meals. If the disabled or elderly adult is in need of personal care such as help with bathing or dressing, this is provided. But if medical care is needed, this must be

provided by a visiting nurse or other medically-trained person coming into the home. This living arrangement is not appropriate for persons in need of nursing care.

Michigan defines "foster care" in part 400.704, section 4 (5) of the Department of Social Services manual as the "provision of supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation." Georgia in 290-5-35-.01 (a) of state rules defines "personal care homes" as a "building or group of buildings, a facility, a place in which is provided two or more beds and other facilities and services, including room, meals, and personal care for nonfamily ambulatory adults."

Georgia, then further defines "personal care" as:

> protective care and watchful oversight of a resident who needs a watchful environment but who does not have an illness, injury, or disability which requires chronic or convalescent care including medical or nursing services. Protective care and watchful oversight includes, but is not limited to, a daily awareness by the management of the resident's functioning, his or her whereabouts, the making and reminding a resident of appointments for medical check-ups, the ability and readiness to intervene if a crises arises for a resident, supervision in areas of nutrition, medication, and actual provision of transient medical care, with a 24-hour responsibility for the well-being of the resident.

Nebraska defines an "adult family home" in its social service program manual (6-001.02) as a "residential living unit certified to provide full-time residence and minimal supervision and guidance to no more than three guests age 19 or older. Service includes board and room with meals, standard furnishings, equipment, household supplies, laundry service, and facilities to ensure client comfort."

Finally, in part 87000, (A) (8) governing "residential facilities for the elderly," California rules state:

> care and supervision are those activities which <u>if provided</u> shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. Care and supervision shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:
>
> (A) assistance in dressing, grooming, bathing and other personal hygiene;
>
> (B) assistance with taking medication, as specified in section 87610;

(C) central storing and distribution of medications, as specified in section 87610;

(D) arrangement of and assistance with medical and dental care. This may include transportation as specified in section 87610;

(E) maintenance of house rules for the protection of residents;

(F) supervision of resident schedules and activities;

(G) maintenance and supervision of resident monies or property; and

(H) monitoring food intake or special diets.

California specifically states in part 87000 (37) that "room and board" means a living arrangement where care and supervision is neither provided nor available.

Thus, for purposes of parts 9555.5105 to 9555.6265, those residences housing functionally impaired adults where adult foster care is not provided or where only room and board is delivered would not require foster home licensure. There would be no provision of supervision, protection and household services, personal care, living skills assistance, or training.

Not all of the elements of adult foster care would have to be present to require licensure. The provision of food, lodging, protection, supervision, and household services are basic. Personal care assistance, household and living skills assistance or training, medication assistance, and assistance with cash resources may also be present. Adult foster care must include supervision and the provision of food, lodging, and household services, at a minimum.

Adult foster care is tailored to meet the individual needs of each resident. Depending on the individual's assessed need for personal care, living skills assistance or training, medication assistance, or assistance with cash resources, those services may be provided. Additional mobility modifications to the residence may also be necessary.

Finally, the definition is reasonable because it has been reviewed by the Department's adult foster home and adult foster care services task forces and found to be consistent with the type and level of care now provided and expected in foster homes currently approved by county social and human service agencies.

Subpart 4. Adult foster care services. This definition is necessary to differentiate the general assessment and placement referral services provided by the county board to persons seeking an adult foster home from those other services provided through the Community Social Services Act (CSSA). It is a reasonable definition because adult foster care is one of the community-based social service functions that can be identified by the county board as a means to meet the needs of the various target populations in the county. Parts 9550.0010 to 9550.0092 are the means that is used by

the county board to identify and plan for the general social service needs of county residents.

Subpart 5. Adult foster home. This definition is necessary to establish the specific meaning given the term "adult foster home" within these rule parts. It is necessary to define "adult foster home" in terms of specific characteristics that make a residence subject to licensure as an adult foster home so persons affected by, and persons administering the rule may determine whether or not a residence is subject to licensure as an adult foster home.

In defining the adult foster home it is reasonable to include situations of care having a variety of motivations. Adults being cared for, whether for profit or for charitable reasons, have the same needs. The phrase "for gain or otherwise" is also part of the definition of residential facility in Minnesota Statutes, section 245.782, subdivision 6. The word "financial" has been added to clarify the kind of gain intended.

It is necessary to specify how many functionally impaired adults may live in the adult foster home to distinguish it from other licensed residential facilities.

It is reasonable to include the provision of care to functionally impaired adults as one of the characteristics that make the residence subject to licensure because serving functionally impaired adults differentiates an adult foster home that must be licensed as mandated in Minnesota Statutes, section 245.782, subdivision 6, from a home that is exempt from licensure. An adult foster home is distinguished from other types of residential facilities, or homes in general, by the services provided.

The "24-hour care" qualification is necessary to distinguish an adult foster home from other care arrangements of less than 24 hours, such as adult day care.

Stipulation that "adult foster care" be provided is necessary and reasonable because it distinguishes adult foster homes from other living arrangements such as Semi-Independent Living Services (parts 9525.0900 to 9525.1020). Food, lodging, protection, supervision, personal care, household services, and living skills training are necessary and reasonable service specifications for functionally impaired adults who may have problems with activities of daily living, thought, or mood impairments or who need support to live in the community.

Subpart 6. Applicant. This definition is necessary to specify who can take the role of the applicant referenced throughout the rule parts. It is reasonable to limit authority for applying for licensure to the same individual or body that is legally responsible for the operation of the adult foster home as specified in Minnesota Statutes, section 245.782, subdivision 13. In the interest of brevity and clarity, it is also reasonable to substitute the applicant for the several words it represents.

Subpart 7. Building official. This definition is necessary because the term "building official" has a specific meaning within the rule parts and in Minnesota Statutes. Persons governed by the rule need to know what

or who a building official is to comply with the requirements that an inspection of the residence may be conducted by a building official to determine if hazard is present. The definition used is reasonable because it is consistent with the definition in Minnesota Statutes, section 16B.65.

Subpart 8. Caregiver. This definition is necessary because the term has a meaning specific to the rule parts. Persons governed by the rule need to know this meaning because the term is used throughout the rule parts in connection with reporting requirements and other responsibilities that must be met by those who give direct care to a resident in the adult foster home. Meeting the responsibilities assigned to caregivers requires that those persons connected with and licensing the adult foster home know who caregivers are.

Subpart 9. Commissioner. This definition is necessary to establish that "the commissioner" referred to through the rule parts is the commissioner of the Department of Human Services and to indicate that the meaning of "commissioner" extends to include any authorized representative of the commissioner. The definition given is reasonable because it is consistent with the definition given in Minnesota Statutes, section 245.782. Since it is physically impossible for the commissioner to personally fulfill the many duties and responsibilities assigned it is necessary to delegate responsibility and authority. It is, therefore, reasonable for the definition to give notice to those affected by the rules that this delegation occurs. Substituting "the commissioner" for the 14 words it represents is also reasonable for clarity and brevity.

Subpart 10. County board. This definition is provided in Minnesota Statutes, section 256E.03, subd. 6. The term is defined so it is not necessary to repeat the more lengthy term "county board of commissioners" throughout the rule parts. This is a reasonable definition consistently applied to this abbreviated term by others in the field of social services. Minnesota Statutes, sections 402.01, subdivision 1, and 402.02, subdivision 2 permits a county board to designate a human services board to perform the human service functions now assigned by law to county boards. Where a county board has elected to designate a human services board, it is the human service board which is responsible for carrying out the county duties relating to community social services. It is necessary to include "human service board" within the definition of the term "county board" to avoid repetition of the more lengthy term "county board of commissioners or human service board" throughout the rule parts.

Subpart 11. County of financial responsibility. The term "county of financial responsibility" is used throughout parts 9555.5105 to 9555.6265 to identify various responsibilities of specific county boards. It is necessary to define this term so that these counties can be distinguished from each other. This definition is reasonable because it incorporates the definition found in Minnesota Statutes, section 256E.08, subdivision 7, (a) to (c) and is consistent with the definition contained in part 9550.0010, subpart 7.

Subpart 12. Department. This definition is needed to specify that "the department" referred to throughout parts 9555.5105 to 9555.6265 is the Minnesota Department of Human Services. The Department of Human Services is

designated in Minnesota Statutes, sections 245.782 to 245.811, through reference to the commissioner, as having certain responsibilities in carrying out the provisions contained in the proposed parts. Substituting "department" for the full name of the agency is reasonable because it contributes to brevity and clarity.

Subpart 13. Fire marshal. Minnesota Statutes, section 245.783, subdivision 2, allows the commissioner to request and coordinate licensing inspection assistance from the state fire marshal. Certain requirements in the rule parts specify that the adult foster home be inspected by a fire marshal. Defining "fire marshal" is necessary because the term has a specific meaning within the rule parts and in Minnesota Statutes. Persons governed by the rules need to know what or who a "fire marshal" is to comply with the requirements. The definition is consistent with Minnesota Statutes, section 299F.011 which outlines state and local authority relative to safety and enforcement of the Minnesota Uniform Fire Code.

Subpart 14. Functionally impaired adult. Under Minnesota Statutes, sections 245.781 to 245.812, licensure as an adult foster home is required for a residence serving "functionally impaired adults" and is not required for a residence not serving functionally impaired adults. It is, therefore, necessary for persons governed by and persons administering the rule to know what is meant by the term "functionally impaired adult" to determine whether a given residence is subject to licensure as an adult foster home. It is necessary that the definition of "functionally impaired" used in the rule parts licensing adult foster homes be the same as the definition in statute. The definition used is consistent with Minnesota Statutes, section 245.782, subd. 14.

Subpart 15. Health authority. This definition is necessary because the term "health authority" has a specific meaning within the rule parts and in Minnesota Statute. Persons governed by the rule need to know who or what a health authority is to comply with the requirements that certain reporting or determination of health hazard or equivalent alternative means to ensure health be made by a health authority. The definition given is reasonable because it is consistent with Minnesota Statutes, chapter 145 that outlines local and state authority and jurisdiction and uses the term "health authority."

Subpart 16. Household member. This definition is necessary because the term has a meaning specific to the rule parts. Persons governed by the rule need to know this meaning because the term is used in connection with the qualifications of household members. Meeting those qualifications is dependent on knowing who the household members are. The specific time requirements are reasonable because they coincide with time requirements for licensure of care in facilities, Minnesota Statutes, section 245.782, subdivision 9.

Subpart 17. Household services. Adults living in an adult foster home cannot usually maintain a home themselves and must depend on the operator of the adult foster home to provide certain services. Often the adult foster home acts as a teaching setting for these activities. Basic tasks have been included in the definition which are both specific and general. If these tasks were not specified, adult foster home operators would not know what

was expected of them. This definition is, therefore, necessary and reasonable.

Subpart 18. Individual service plan. This definition is necessary to define because the term has a meaning specific to the rule parts. Persons governed by and persons administering the rule need to know the meaning to achieve or monitor compliance because the rule parts require that an "individual service plan" be part of the personal record of a functionally impaired adult placed in foster care in certain situations. The definition is necessary to differentiate the "individual service plan" developed for some residents from the "individual resident placement agreement" required for all. The definition is reasonable because it refers to the plan that is the basis for community social services provided to a client which is developed by the local agency as specified in rule parts 9550.0010 et. al. (Rule 160). It is also reasonable because it refers to the plan that is the basis for services provided to persons with mental retardation or a related condition which is developed under parts 9525.0075. The individual service plan (ISP) serves as a guide to the adult foster home operator in providing and coordinating services for a resident. Not all residents, however, will have an ISP. Those which do not apply for or accept community social services or who are not mentally retarded, may only have an individual resident placement agreement.

Subpart 19. Individual resident placement agreement. This definition is necessary to define a term which has a meaning specific to the proposed rule parts. Persons governed by, and persons administering, the rule need to know the meaning to achieve or monitor compliance. The rule parts require the development of an individual resident placement agreement for each resident. The definition is reasonable because it clarifies the subject matter of the basic agreement and the parties who must sign the agreement. It is reasonable because it specifies the function and content of the plan and, thus, provides a standard which may be uniformly applied in determining whether or not the individual resident placement agreement has been developed as required. Such an agreement is consistent with current practice in the social service field. Item A is necessary to verify that the adult needs adult foster care. Item B is necessary to specify exactly which adult foster care services the operator will provide and to what extent. This eliminates confusion and misunderstanding about what is expected of the operator. Item C is necessary to ensure that plans have been made for payment of the adult foster care. Item D is necessary to describe responsibilities related to certain services for the resident which the operator may agree to in order to assist the resident, eliminating misunderstanding about what is expected. Item E is necessary to ensure that the individual resident placement agreement and the individual habilitation plan do not conflict with each other. It is necessary for the plans to agree so the goals and objectives of the resident are supported. Item F is necessary to ensure that the individual resident placement agreement carries out the specific activities in the individual service plan that relate to adult foster care. These items are reasonable because they clarify the subject matter and content of the agreement. They also specify items directly related to the care given the resident by the operator.

Subpart 20. Legal representative. This definition is necessary because the term has a meaning specific to the rule parts and is used

throughout the rule parts. Persons governed by the rule need to know this meaning because the term is used in connection with meeting responsibilities for incompetent residents. The definition is reasonable because it is consistent with the definition given in Minnesota Statutes, sections 525.539 to 525.6198 or Minnesota Statutes, chapter 252A.

Subpart 21. License. This definition is necessary to ensure that the meaning given the term "license" in the rule parts is the same as the meaning in statute. The definition used is reasonable because it is the same as the definition given in Minnesota Statutes, section 245.782, subdivision 11.

Subpart 22. Licensed capacity. Minnesota Statutes, section 245.783, subdivision 5, requires a license to prescribe the number of persons who may receive care at one time. "Licensed capacity" is used throughout parts 9555.5105 to 9555.6265 to indicate the maximum number of functionally impaired residents who may reside in the adult foster home at any time and receive foster care. The definition is necessary to establish a general term consistent with statute. It is reasonable because it shortens the rule by decreasing the number of words used to refer to a term.

Subpart 23. Living skills assistance. This definition is necessary because the term is a part of the definition of adult foster care. Persons governed by the rule must know its specific meaning. The definition is reasonable because it outlines categories of activities and skills needed by a resident living in a community setting. It is reasonable because it allows for the activities to be performed by a caregiver on behalf of the resident or taught to the resident, thus, providing flexibility in meeting individual needs.

Subpart 24. Local agency. Minnesota Statutes, section 245.783, subdivision 3 refers to "the director of any social service agency responsible for licensing" as assisting the commissioner who "shall be responsible for processing applications for licensure." Minnesota Statutes, section 245.782, subdivision 8, defines the commissioner to include "any duly authorized representative of the commissioner." Authority for the local agency of the county board to assist the commissioner in carrying out licensing duties is also found in Minnesota Statutes, section 393.07, subdivision 2, and 256E.08, subd. 1. The definition is necessary to clarify that the term is an abbreviation. It is reasonable to delete unnecessary words in a reference frequently repeated in rule.

Subpart 25. Medication. "Medication" is a word in common use and has several possible meanings. Because requirements for the administration, storage and use of medication are used throughout the rule parts, it is necessary to clearly define the term. Because the intent is to control the administration of prescription substances, it is necessary to define medication in this manner. The definition reasonably satisfies the need and has been reviewed by Mike Tripple, assistant director of the Health Resources Division of the Minnesota Department of Health and Dr. Frederick Ferron, medical director, Department of Human Services.

Subpart 26. Minnesota Uniform Firm Code. It is necessary to define this term because the residence which is to be licensed must be safe and

free of hazard and in compliance with MUFC provisions. The operator seeking licensure and those applying it must, therefore, know what code is specified. The commissioner is mandated to ensure the safety of residents in the home. The MUFC establishes fire safety standards for homes throughout the state. The rule provides for an initial fire inspection by a fire marshal. It is necessary that the inspection be conducted by a person expert in the area of structural and fire safety standards to ensure that the home is safe.

The MUFC establishes a standard for foster homes which is consistent with the standard for family homes in general. The standard is that care be given in a residential dwelling unit occupied by someone as home. The fire safety standard established is for residential occupancies. An initial inspection is necessary to verify that the facility is in a dwelling unit - not a store front or the garage. The state building code standard is not solely adequate because it only applies to new construction or changes in occupancy. It is necessary and reasonable that a minimum standard be established that applies to all homes. The standard does not require that existing homes be brought up to current building code standards. The MUFC standard would ensure that all foster homes, regardless of location or licensed capacity, at least meet the minimum standard for a safe residential occupancy which has been adopted statewide. The Minnesota Fire Code has been adopted statewide and thus is a general standard for "safe" for the state. It is reasonable to reference the Minnesota Uniform Fire Code because this standard may be applied retroactively to all dwellings throughout the state, thus ensuring that all dwelling units, regardless of date of construction, meet some minimum fire safety standard.

Subpart 27. Operator. This definition is necessary to ensure that the term "operator" has the same meaning in the rule parts governing adult foster home licensure as it has in statute. This consistency is needed because the term, as defined in Minnesota Statutes, section 245.782, subdivision 13, assigns legal responsibility for the operation of a facility to the operator. It is necessary for the rule parts to reflect the same designation of responsibility as statute. The definition is reasonable because it is the same as the definition in statute.

Subpart 28. Personal care. This definition is necessary because the term is part of the definition of adult foster care. Persons governed by and applying the rule must know its specific meaning. The definition is reasonable because it outlines activities of care and hygiene needed daily by the resident. It is reasonable because the definition allows for the activities to be performed by a caregiver on behalf of the resident or taught to the resident.

Subpart 29. Protection. This term is necessary to define because it may have several meanings in common use. It is necessary to define so those persons enforcing the rule provisions and those licensed to operate an adult foster home have a clear understanding of their responsibilities. As used throughout the rule parts the definition means protection as defined in the Vulnerable Adults Act, Minnesota Statutes, section 626.557. This is a reasonable definition because subdivision 1, "Public Policy" states that:

> the Legislature declares that the public policy of this state is to protect adults who, because of physical or mental disability

or dependency on institutional services, are particularly vulnerable to abuse or neglect; to provide safe institutional or residential services or living environments for vulnerable adults who have been abused or neglected; and to assist persons charged with the care of vulnerable adults to provide safe environments.

It is reasonable that the operator maintain a safe environment for the adults in care, provide an environment that is free of neglect and abuse as defined in 626.557, and report any incidents of suspected abuse or neglect.

Subpart 30. Related. This term is one that is in common use and is used throughout the rule parts. It is a term that may have several meanings. It is necessary to have the meaning clearly specified so those seeking licensure and administering the rule parts, have a clear and consistent understanding of the meaning. Minnesota Statutes, section 245.782, subdivision 10 of the Public Welfare Licensing Act defines this term. The definition used is reasonable because it is the definition used in statute.

Subpart 31. Residence. This term is one that is commonly used and may have several meanings. It is necessary to define so there is a uniform and consistent application of the rule parts. The task force determined that it is necessary to clarify that adult foster home care be provided in a "home-like" setting and that it be differentiated from other residential or community-based care provided in a health care occupancy, educational, or institutional occupancy specifically designated for large group care or acute care. In the building code, the classification of a structure or building as a "residence" relates directly to the kind of construction, occupancy load, and use to which the structure is put. Construction materials, exit requirements, lighting, ventilation, wall and floor surfaces may vary. The definition of residence proposed would prohibit use of a structure, such as a warehouse, the commercial portion of a mixed-occupancy structure, garage, shed, car port, or agricultural building, for foster care. Such nonresidential occupancies may present hazards such as exposed venting, unguarded lofts, shafts, open unfinished walls, or unsuitable or nonexistent windows which are not safe for residents. The definition is further reasonable in that it differentiates a "dwelling unit" from other community-based residential occupancies such as nursing home or "residential" hotel or rooming house - where only guest rooms or dormitory rooms are provided and congregate space for living and dining may or may not be available. The residence not only must provide sleeping space, but living, dining, kitchen, and bathroom space as well as specified in the State Building Code, section 405. Thus, a "home-like" environment is specified.

Subpart 32. Resident. This definition is needed to establish a meaning for the word "resident" that is not subject to interpretation so those governed by and administering the rule may readily determine and agree on who is a resident. This need is underscored by the fact that the term "resident" plays a key role in setting forth the adult foster home operator's responsibilities with respect to key compliance areas such as the licensed capacity of the adult foster home. The definition given is reasonable because it specifies a service relationship to the operator that no other household member or roomer has.

Subpart 33. Roomer. This definition is necessary because the term has a meaning specific to the rule parts. Persons governed by the rule need to

know the meaning because the term is used in connection with qualifications of persons who may be present within the residence and in contact with functionally impaired adults and is used in connection with the capacity limit of the home. The term is reasonable because it distinguishes roomers from other household members related to the provider and caregivers who do not require adult foster home services.

Subpart 34. Service agency. This definition is necessary to clarify what agency is responsible for the provision of the adult foster care services specified in the rule parts and to differentiate this agency's responsibilities from those of the local agency. The service agency could also be the local agency. However, in some cases they are not one and the same and must be distinguished from each other.

Subpart 35. Social worker. This definition is necessary to clarify who and with what qualifications should coordinate and be responsible for the proper assessment and placement of the functionally impaired adult seeking and adult foster home. The department's foster care task force recommended that the person responsible not be a case aide but a social worker with professional qualifications in the area of social work practice and human services needs assessment, referral, and placement. The definition of social worker is reasonable because the Minnesota Merit System description contained in Exhibit H for the position of "social worker" describes a person who can perform casework management, direct service programs, interview clients, counsel families, assess problems, do referrals, and supervise foster home placements. The definition is reasonable because the merit system or county equivalent (not coded) is the system and standard currently used by counties in their current assessment of and need for foster care. The definition is reasonable because it recognizes the county practice of using the assessment and placement qualifications of social work professionals in other social service agencies.

Subpart 36. State Building Code. It is necessary to define this term to clarify the specific code referred to in the rule parts, to avoid confusion as to the "appropriate applicable" code, and to ensure consistency in application and assessment of structural hazard statewide. The definition is reasonable because it is consistent with Minnesota Statutes, section 16B.59 and Minnesota Rules, Chapter 1300.

Subpart 37. Supervision. This definition is necessary because the term is part of the definition of adult foster care. Persons governed by the rule must, therefore, know its specific meaning. The definition is reasonable because it outlines an activity and degree of responsibility essential to the concept of adult foster care - that of overseeing and being daily aware of the needs of an individual who can no longer function independently. The need for supervision is a factor which differentiates an adult who may be functionally impaired and in adult foster care from one who can live on his or her own. The definition proposed is similar to that for "personal care" from Georgia which uses the terms "watchful oversight" and "daily awareness." Functionally impaired adults in a foster home may have a range of emotional, physical, and mental impairments. They will thus have a wide range of supervisory needs. Some adults may need constant supervision. Others may be able to live fairly independently with supervision only at night or in the evening. The Department wanted to allow for

some discretion in planning to meet individual needs, yet assure that some minimum level of supervision be provided on a daily basis to achieve the concept of oversight and daily awareness. Supervision in excess of the minimum in item B may be required if the resident's individual service plan so indicates. At a minimum, however, there must be regular, ongoing supervision daily, on-site, during normal sleeping hours. Item B is reasonable because it differentiates the adult foster home from a residence where persons are living independently and receiving semi-independent living skills (SILS) training. In the latter setting the individual is capable of independent living with intermittent and less than daily on-site assistance and training. The definition and provision in item B is reasonable because it allows for the situation where an adult may function well during the day and the provider may be employed away from the residence regularly for part of the day. Conversely, the functionally impaired adult may be employed outside the residence or use adult day care or day activity center services, and require supervision only during evening hours.

Subpart 38. Variance. "Variance" is a term that has several possible meanings. Its use in these rules has a specific meaning. A definition is necessary to establish this meaning. Minnesota Statutes, section 245.802, subdivision 1, authorizes the commissioner to develop rules and regulations for granting licenses or making licenses probationary. Minnesota Statutes, section 245.783, subdivision 3, authorizes the commissioner to issue a provisional license if his study shows that an applicant cannot substantially meet all applicable laws and rules but that the deviations do not threaten the health, rights, or safety of the persons served. Minnesota Statutes, section 245.782, subdivision 11, requires the license issued by the commissioner to set the terms of licensure. Therefore, defining a variance as permission from the commissioner to depart from a rule but only if the health, safety and rights of the residents are assured by some other equivalent means is a reasonable interpretation of statute. It is also reasonable to define the permission as written permission so there is evidence of the action.

Subpart 39. Vulnerable Adults Act. It is necessary to define this term because persons governed by the rule must comply with its provisions and the term is repeated throughout the rule parts. The definition is reasonable because it is identical with statute definition.

9555.5205 APPLICABILITY

It is necessary to state the applicability of parts 9555.5105 to 9555.5705 so that county boards may ascertain their role and responsibilities with respect to the rule parts and local agencies, service agencies, residents, prospective residents, and other interested parties can determine whether or not the rule parts apply. This section is reasonable because it assists the public in determining the relevance of and their interest in the rule parts.

9555.5305 PURPOSE

It is necessary to inform the public of the purpose for promulgation of the rule parts and of the Department's policies regarding implementation of

the rule parts. It is reasonable because it is consistent with the intent of Minnesota Statutes, chapter 256E (the Community Social Services Act). Minnesota Statutes, section 256E.02, states the purpose of the Community Social Services Act: to establish a system of planning for and providing community social services administered by the boards of county commissioners of each county under the supervision of the Commissioner of Human Services. Section 256E.08, subdivision 1, restates the responsibilities of county boards for administration, planning, and funding of community social services, and authorizes county boards to contract for or directly provide "an assessment of the needs of each person applying for assistance which estimates the nature and extent of the problem to be addressed and identifies the means available to meet the person's needs." This section also states "these diagnostic and evaluation activities shall evaluate the functioning of each person with regard to an illness or disability, screen for placement, and determine the need for services."

9555.5405 FOSTER HOME DEVELOPMENT

It is necessary to address the development of adult foster homes because without licensed adult foster homes a service agency cannot provide adult foster care services to residents or prospective residents of adult foster homes. Frequently there would be no adult foster homes in a county if the local agency did not take affirmative action to solicit and develop them. The Adult Foster Care Manual (Department of Human Services) states that the "primary goal of any foster home recruitment campaign is to license within a reasonable time period a predetermined number of new foster care providers." The manual indicates that the experience of attempting to recruit quality foster homes is complex and can be frustrating. In addition, the manual recommends that certain steps be taken to enhance results as follows: Step (1) obtaining agency commitment; Step (2) knowing the program and what to look for in potential providers; Step (3) identifying clear, measurable, and realistic goals and objectives; Step (4) consideration of forming a task force or committee; Step (5) use of a variety of recruitment methods. (Exhibit J.) The standard requires only the "implementation" of a recruitment plan rather than recruiting the number of homes specified as needed in the Community Social Services Plan according to parts 9555.0010 to 9555.0092 which would be unreasonable because of all of the unknown factors in recruitment. For these reasons, this standard is reasonable.

9555.5415 LICENSING ASSISTANCE

Subpart 1. Assistance. Minnesota Statutes, section 245.783, subdivision 1, requires the commissioner to offer assistance, consultation, and information to applicants for licensure. Local agencies may be designated by the commissioner to assist in the process because Minnesota Statutes, section 245.782, subdivision 8 defines "commissioner" as the "commissioner of human services" and includes any "duly authorized representative" of the commissioner. Minnesota Statutes, section 245.783, subdivision 3 refers to "the director of any social service agency responsible for licensing" as assisting the commissioner. Minnesota Statutes 393.07, subdivision 2 mandates the county welfare board to assist the commissioner with the admi-

nistration of social welfare services. Awareness of the standards for the operation of an adult foster home is necessary to enable an applicant to meet the requirements for licensure. Parts 9555.6105 to 9555.6275 set these standards. Therefore, it is necessary and reasonable to require the local agency, as the commissioner's delegated licensing representative, to provide consultation, assistance, and information to applicants. Parts 9555.6100 and 9555.6400 currently require "county welfare departments" and the county welfare board to study and issue "approvals" for foster homes. Items A. to E. further delineate the specific duties of the local agency. It is necessary and reasonable to clarify current practice within the rule so the responsibilities between the Department and the local agency are clearly defined. Item A. is necessary and reasonable to ensure that the applicant receives the correct, official approved forms and documents so that consistent information is disseminated and consistent information is received. Item B. is necessary to provide a timely record for monitoring compliance with Minnesota Statutes, section 245.801, subdivision 2. Items C. and D. are necessary so the agency fully understands the extent of its assistance responsibilities. It is consistent with current practice. It is reasonable that the agency continue to "recommend" since the commissioner has not delegated his authority to grant or deny a license. Finally, item E. is necessary to ensure timely compliance with Minnesota Statutes, section 245.812, subdivision 5.

Subpart 2. Unlicensed residences. This subpart is necessary to delineate those procedures to be used by the local agency with respect to unlicensed residences. It is necessary to delineate how complaints may be handled. The provision is reasonable to ensure that complaints and inquiries are handled in a timely manner and a record is kept by the local agency for future reference by the commissioner. It is necessary and reasonable to state the fine and injunction sanctions specified in Minnesota Statutes, section 245.803 to make persons aware of the possible consequences of not obtaining the required license. The provisions for violations of parts 9555.6105 to 9555.6265 and Minnesota Statutes, section 245.791 are reasonable in that they specify a reasonable time frame for investigating complaints concerning possible noncompliance. Reference to the Vulnerable Adults Act and parts 9555.7100 to 9555.7700 ensures consistency with those statutory and regulatory requirements concerning abuse and neglect complaints.

9555.5505 LOCAL AGENCY ORIENTATION AND TRAINING ROLE

Subpart 1. Agency role. It is necessary to specify within rule who is responsible for providing the orientation and training required of operators in part 9555.6185. Sources of and opportunities for training are not uniform throughout the state. Individual county and operator needs, demands, and resources vary. There are, however, some basic orientation topics that need to be covered initially, and thereafter, some general training topics that the Department seeks to mandate for those providing care to functionally impaired persons. This subpart is reasonable because orientation and training must be available within a reasonable distance from a home at hours convenient to operators and caregivers. The provision is written to allow the agency to provide training themselves, to arrange for the provision from other available sources, or to notify operators of the opportunities available within the range, hours, and subjects indicated. This allows the

agency flexibility to use their own expertise in the adult foster care field for specialized instruction or to rely on other educational offerings that relate to the field of adult foster care that are offered through colleges, vocational schools, the county health department, mental health centers, an area agency on aging, or another social service agency. In counties with few adult foster homes this subpart would allow the local agency to set up informal training experiences that meet the specific needs of operators and caregivers. If it is not practical for an individual caregiver to leave the home, self-instruction material and video equipment or independent study courses via public television can be used to meet the training requirement.

Subpart 2. Orientation. This provision is necessary to inform the local agency of the Department's initial information priorities. It is reasonable because the operator and caregivers must be aware of the provisions of the Vulnerable Adults Act and their responsibilities for reporting and protecting the adults from neglect and abuse. At a minimum, the rule standards are designed to ensure the health, safety and rights of a resident. The right to an environment that is safe, clean, and free of abuse and neglect is minimally essential. It is reasonable that the general provisions of the rule be discussed with the operator and caregivers prior to placement of a resident to ensure that they are understood.

Subpart 3. Training information. This provision is necessary to ensure that operators and caregivers are aware of acceptable training opportunities available within the county that satisfy the general provisions of part 9555.6185. It is reasonable because it does not mandate that the agency provide the training, but at a minimum identify sources and opportunities available, thus ensuring that the operator and caregivers are informed of those opportunities which are acceptable to the commissioner and best meet the needs of those persons in the foster home.

9555.5605 ASSESSMENT

Subpart 1. Assessment. This subpart is necessary to clarify who must receive an assessment, who must coordinate the assessment, and what the assessment must contain. The provision meets the requirements of Minnesota Statutes, section 256E.08. It is reasonable to require that persons with mental retardation receiving services under parts 9525.0015 to 9525.0145 have the assessment outlined in those standards to avoid duplication and because those assessment standards have higher requirements. It is reasonable to require that a person who may be applying for community social services have an assessment that is coordinated with the county assessment process in part 9550.0090.

It is reasonable that persons screened for placement in a nursing home or board and care under the Preadmission Screening/Alternative Care Grant program in Minnesota Statutes, section 256B.091 be able to use the assessment required by that program to avoid duplication and because the assessment would likely have been completed prior to the decision of the adult to seek adult foster home placement. In addition, the assessment would require similar information to be gathered on the adult.

It is reasonable to require supervision and overall coordination of the assessment process by a social worker because the assessment must be con-

ducted by a person knowledgeable about human needs and trained in gathering information on functional assessment. The person doing the assessment must also ensure that the assessment is conducted in a manner appropriate for adults with functional impairments. The provision for a social worker to coordinate the assessment is also reasonable because it was recommended by the task force. It is necessary to specify what the assessment must address in subitems (1) to (10) because these are items on which the social worker needs to evaluate whether adult foster home placement will meet the adult's needs in general and whether a specific adult foster home will meet the specific needs of the adult. Items (1) to (3) and (6), (7), (8), and (9) include items found on the adult intake assessment form and the adult functional assessment form developed through a contract with the department. These forms are part of the Adult Services Field Guide to County Social Services Agency Workers (Exhibit W). Item (4) is required to determine whether supervision is needed. This is a key factor because persons not needing supervision may not need adult foster care and may be better served in their own home. Item (5) is required to determine if an adult can be cared for in an adult foster home or needs a higher level of care. Item (10) is required to determine what other types of services the adult may need in addition to the services of an adult foster home.

Subpart 2. Mobility access assessment. Is is necessary to require this additional area of the adult's functioning be assessed to find out whether the adult foster home will need modifications. It is reasonable to require consultation with the resident, the resident's legal representative, and other persons knowledgable about the resident to gather further information. The mobility assessment is reasonable because many, but not all functionally impaired adults have mobility impairments. These impairments may require individual environmental modifications as evidenced by the committee meeting of the task force held on March 26, 1986. (Exhibit I) According to three operators at the meeting who care for mobility-impaired residents, a standard set of modifications to the residence for all mobility-impaired residents would not meet the needs of their three residents because they all have different impairments. Because modifying homes for accessibility is so expensive and could easily reduce the value of a home on the housing market, only those modifications needed by an individual resident should be required. Sometimes aides may be substituted for costlier structural changes. If general accessibility standards similar to those contained in chapter 1340 of the State Building Code were required "across the board," many mobility impaired adults would not have an opportunity to reside in a foster home and modifications may be made that are not needed. It was, therefore, recommended by task force members, Diane Sprague of the State Housing Finance Agency and Kurt Strom of the Minnesota Council for the Handicapped, that the two agencies determine the items to be in an accessibility checklist and identify which are appropriate modifications and aids for each mobility impaired resident. Consultation with persons informed about accessibility and the resident's condition is necessary because most social workers would need as much information as possible to complete the checklist. This provision is reasonable because it does not require specifically-named persons or qualifications for persons knowledgeable about accessibility because they may vary with each resident and in each community. Confinement of persons in wheelchairs to a level with an exit directly to grade is consistent with the recommendations of the State Fire Marshal.

Subpart 3. Placement standards. This part is needed to set limits on who can be placed in an adult foster home. Item A is reasonable because anyone who is not an adult is a child and, thus, would need to be placed in a foster home that is licensed under parts 9545.0010 to 9545.0230. Item B is reasonable because, under Minnesota Statutes, section 245.781 to 245.812, licensure as an adult foster home is required for an adult foster home that serves a functionally impaired adult and is not required for a home that does not serve a functionally impaired adult. Item C is reasonable because it clarifies that an adult should only be placed in an adult foster home if they desire to be placed. Item D is reasonable because it clarifies that adults should go into an adult foster home because they need the services of an adult foster home to be able to live in the community as specified in part 9555.5105. Item E is reasonable because adult foster home operators and caregivers do not have the qualifications, licenses, equipment, or expertise to provide such care. Item F is reasonable because it is required by parts 9525.0015 to 9525.0145.

Subpart 4. Placement and consumer choice. This subpart is necessary to clarify who chooses the adult foster home for the functionally impaired adult when the adult is appropriate for adult foster home placement. Allowing the adult or the adult's legal representative to choose among the homes determined by the social worker to be appropriate is a way to promote independence and ensure that the adult or the adult's legal representative are involved in the process. This is consistent with the self-determination principle in social work practice.

Subpart 5. Matching. This part is necessary to clarify how the social worker determines which adult foster home is appropriate for the adult. The need to match home and resident characteristics has similarly been supported by Crocket [8.]; Evans [9.]; Hollier and Hanison, [10.]; and Malholm and Barton [11.] Brockett [12.] says that "the key to successful placement is an ability to match clients to homes." He goes on to say that "when attempting to match an operator with a prospective resident, it is important to consider the personalities and lifestyles of both parties." Brockett also points out that different lifestyles can lead to conflicts between residents, operators, and caregivers. He thinks an operator's request for certain resident characteristics should be taken into account to promote successful placements. Dorgan [13.] says responsibility for matching is best left to the judgment of the social worker. This provision is reasonable because it requires the social worker to take into consideration information on the home obtained from the licensing study, information on what the operator's program can offer the resident, and the information from the adult's assessment in matching the adult foster home with the prospective resident.

Subpart 6. Preplacment visit. This provision is necessary to give the resident an opportunity to evaluate the environment by actually being in the environment. This is especially important for those persons with mobility impairments because it may be necessary to make accessibility changes to the home. The visit gives the person an opportunity to meet the operator, caregivers, and household members and discuss the routine of the residence. Cochran, Sran, and Varano [14.] have documented cases of "relocation syndrome" causing anxiety and depression in persons with mental retardation who were not adequately prepared for a move to another living arrangement. One

of their recommendations to prevent this syndrome is "site visits to the new facility if at all possible." In 1977 Sherman and Newman [15.] studied caretakers in adult foster homes in two major programs in New York.

> Caretakers from both agencies studied agreed on the importance of preplacement visits to foster homes by prospective residents. Some caretakers emphasized the value of the visits for themselves in establishing whether an individual had the qualities they were looking for in a resident. Others emphasized the value of such visits to prospective residents. One caretaker indicated that, in general, when people move, "you don't move right in; you go and look the place over first." Another noted that it was most important for the resident already living in a foster home to meet and be satisfied with prospective new residents.

It is reasonable to require the visit only for placements deemed "ongoing" because shorter placements imply an emergency situation or respite situation of a very short duration and situations that are limited in number, even in large counties, and there may be no other placement alternatives. It is reasonable to require that the social worker make arrangements for the visit because a representative of the social worker has information about the resident that the operator must consider when admitting an adult. It is necessary to specify items to discuss to ensure that the operator and resident have mutual information. Item A is reasonable because the needs of the adult are the basis for placement. Item B is reasonable so the operator and prospective resident can determine if the home will meet the prospective resident's needs. Item C is reasonable because the resident may often have a need for services away from the home. It is necessary to determine prior to placement if the operator can meet those needs or if a service agency must arrange for and coordinate, those services. Item D is reasonable to ensure prompt payment or referral for financial assistance.

9555.5705 PROVISION OF ADULT FOSTER CARE SERVICES TO RESIDENTS OF ADULT FOSTER HOMES

Subpart 1. Adult foster care services. It is necessary to state that these provisions apply only to those counties who elect to provide adult foster care services because adult foster care is not a mandated service under parts 9555.0010 to 9555.0092. It is necessary to notify residents or prospective residents of the availability of adult foster homes because they may not be aware of this placement option from the usual methods of notification required in parts 9555.0010 to 9555.0092. For example, they may not be able to see, they may be unable to read due to mental retardation or brain impairment. They may be physically handicapped and not be in places where the county board ordinarily informs citizens of its services. They may be hesitant to accept such services because of stigma and may need further information and explanation. This often happens with older persons who do not wish to be "associated with welfare." Functionally impaired adults are likely to need additional services to stay in the community whether they are generic community services, health services, or social services.

This provision is reasonable because it is consistent with Minnesota Statutes, chapter 256E (the Community Social Services Act). Minnesota

Statutes, section 256E.02, states that the purpose of the Community Social Services Act is to establish a system of planning for and providing community social services administered by the county board under the supervision of the department. Section 256E.08, subdivision 1, restates the responsibilities of county boards for administration, planning, and funding of community social services and authorizes county boards to contract or directly provide "an assessment of the needs of each person applying for assistance which estimates the nature and extent of the problem to be addressed and identifies the means available to meet the person's needs." This section also states "diagnostic and evaluation activities shall evaluate the functioning of each person with regard to an illness or disability, screen for placement and determine the need for services."

Subpart 2. Development of individual resident placement agreement. This subpart is necessary to clarify who is responsible for the development of the individual resident placement agreement, to set timelines, and to ensure that the agreement is coordinated with the resident's individual service plan, if there is one. It is reasonable to assign responsibility for development of the individual resident placement agreement to the service agency because the service agency already is directly responsible for the provision of adult foster care services and the coordination of services in the individual service plan. Because the individual resident placement agreement is a part of the coordination of community social services for the mentally retarded, the service agency is in the best position to make sure the individual resident placement agreement is properly developed. If the services are not coordinated and compatible, the efforts of various service providers might not be aimed at the same goals and objectives and this would negatively affect the resident. It is reasonable to use the individual service plan (an overall plan) as the source of reference in designing the individual resident placement agreement to address the specific care of the resident in the adult foster home and to make sure they are compatible. It is reasonable to provide that the operator has a copy of the individual service plan so the operator is aware and can contribute to and support the overall goals of the resident. Thirty days is a reasonable time to complete the individual resident placement agreement because it gives the service agency, resident, and operator time to observe the resident in the adult foster home in case further evaluation is needed and it is not too long a time period to leave the resident without a structure for care in the adult foster home. If the adult is not receiving adult foster care services under parts 9550.0010 to 9550.0092 or services for persons with mental retardation or a related condition it is reasonable to require that the operator be responsible for the development of the individual resident placement agreement because the operator is responsible for the specific care given the resident in the adult foster home and current practice has routinely allowed the operator and private pay resident to develop the plan for care.

Subpart 3. Placement review. It is necessary to require standards for a follow-up to ensure the health, safety, and rights of a resident with an individual service plan. Item A is reasonable because functionally impaired adults may have complex needs and the provision of adult foster care should be monitored to assure that the placement can meet these needs. If there is a problem with a placement, thirty days is a time span that offers basic protection for the resident and may still allow adjustments in services if needed. It also provides an opportunity for the service agency to assist

the resident and operator in working out perceived problems or gaps in the care of the resident. Item B is reasonable because the service agency responsible for the individual service plan can assess whether further assistance is needed and what kind of assistance is needed to meet the goals and objectives of the resident. The service agency is knowledgeable about the resident from the assessment and in touch with community resources that can assist the operator in providing adult foster care. Item C is reasonable because the resident may have a crisis and the service agency is in the best position to determine the needs of the resident in an emergency or crisis situation. Residents with individual service plans often have complex needs. Specific intervention technics may be helpful and the service agency is most likely to be aware of these technics. This is also reasonable because a caregiver needs support in handling difficult behaviors of some residents. If the caregiver knows this support is available, the caregiver is most likely to try to work through problems without involuntarily discharging the resident which is not usually in the best interest of the resident. Item D is reasonable because it is required by parts 9555.7100 to 9555.7700.

9555.6105 APPLICABILITY AND PURPOSE

This section is necessary to assist the public in determining the relevance of and interest in rule parts 9555.5105 and 9555.6105 to 9555.6265. Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, require the licensing of residential facilities. Minnesota Statutes, section 245.782, subdivision 6, defines "residential facility" as "any facility. . . which. . . regularly provides one or more persons with a 24-hour per day substitute for care, food, lodging. . . supervision. . ." (emphasis added). Adult foster homes are not currently licensed by the department; instead they are "approved" or "certified" by "county welfare departments" under Minnesota Rules, parts 9555.6100 to 9555.6400. Promulgation of parts 9555.5105 and 9555.6105 to 9555.6265, and consequently, the repeal of parts 9555.6100 to 9555.6400, was authorized by 1984 Laws of Minnesota, Chapter 542, sections 1, 4, 5, and 7. Section 1 amended the definition of "person" in Minnesota Statutes, section 245.782, subdivision 2, to include ". . . for purposes of adult day care, adult foster care, and supportive living residents, an adult who is functionally impaired" (emphasis added). Section 4 amended Minnesota Statutes, section 245.782, by adding a definition of "functionally impaired." Section 5 amended Minnesota Statutes, section 245.791, by no longer exempting from licensure "a day care or residential facility serving fewer than five physically or mentally handicapped adults." Section 7 [now Minnesota Statutes, section 245.792] authorizes the commissioner to promulgate rules to implement the provisions of sections 1 to 5. The purpose of licensing day care and residential facilities and agencies, for children and adults, under the Public Welfare Licensing Act, is to regulate the provision of care and services and to assure the protection, health, rights, and safety of the persons served.

9555.6115 LICENSE APPLICATION PROCESS

Minnesota Statutes, section 245.783, subdivision 1, requires a residential facility to be licensed and application made on the form supplied by the department. Minnesota Statutes, section 245.783, subdivision 1, requires

the commissioner to offer "assistance, consultation, and information" to applicants for licensure. Including in this part the information about the place to obtain and submit the application form and who is to make the application is reasonable to make the applicant aware of the required application procedure. Minnesota Statutes, section 245.783, subdivision 1, requires that the application for a license be made "in the manner prescribed by the commissioner." The provision indicates the items which must be submitted to complete an application for licensure. The items are the completed, signed department application form and the documents needed by the department to verify compliance with parts 9555.5105 and 9555.6105 to 9555.6265. It is necessary and reasonable to require these items before an application for licensure is "complete" to ensure that applications are not approved before compliance with parts 9555.5105 and 9555.6105 to 9555.6265 can be verified. Minnesota Statutes, section 245.801, subdivision 2, states that "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 item D were not included in the rule, delays in receiving additional documentation from the applicant on inspections, zoning, caregiver evaluations, or other investigative reports needed to verify compliance could result in an approved license if the delays continued for a period of 90 days or more following submission of the application form (under section 245.801, subdivision 2). This result would clearly be contrary to the intended purpose of licensing. An adequate period of time must be allotted for the department to process complete recommended license approvals and denials.

9555.6125 LICENSING STUDY.

Subpart 1. Access to residence. Minnesota Statutes, sections 245.783, subdivision 3, and 245.804, subdivision 1, require the commissioner to conduct a study and evaluation of the applicant and the residence prior to granting a license. Minnesota Statutes, section 245.804, subdivision 2, requires the operator and applicant to cooperate with the inspection needed for the study by providing access by authorized representatives of the commissioner to the residence, records, and caregivers. Since the residence may include adjacent or adjoining grounds and buildings owned and operated by the operator in conjunction with the provision of adult foster care which may be used by a resident, it is reasonable that access include them to ensure the absence of health and safety hazard. Such buildings may include a garage, carport, or barn. In cases where mobility access is being assessed external walkways or steps may be involved. Access to persons who regularly will have contact with residents is reasonable to ensure compliance with the qualification standards contained in subpart 4 and to exclude the occasional visitor or repair person from the mandated criminal history check. Definition of access to records to mean not only the "right to view" but also "to photocopy" documents, is a reasonable provision in that memorization or manual note taking by an inspector or licensor of pertinent records and documents is not only extremely time consuming, but, in cases of dispute, more prone to error and subjective interpretation. These provisions are consistent with those adopted July 7, 1986, for family and group family day care homes in parts 9502.0315 to 9502.0445.

Subpart 2. Inspections. This provision is necessary to ensure the health and safety of residents. The department must establish proce-

dures to ensure the health and safety of residents. A fire marshal is best qualified to determine the presence of fire hazard within a residence and compliance with provisions of the Minnesota Uniform Fire Code. Minnesota Statutes, section 245.802, subdivision 1, require the commissioner to consult with the fire marshal in developing rules. Requiring an initial inspection of each residence to ensure that it is a residential occupany and complies with state fire standards for such occupancies is a reasonable way to assure the absence of fire hazard and ensure the safety of residents. An initial inspection will not create an unreasonable burden on fire marshals according to Robert Imholte of the state fire marshal's office. The procedure ensures uniform application statewide. The commissioner cannot be expert in all matters that relate to health, safety, sanitation, and building condition. It is reasonable, therefore, to allow the commissioner to require expert assistance to verify the absence of hazard. The home safety check list (Exhibit Z) provision is a reasonable way to provide the commissioner with the means to verify or measure the degree of hazard present and the extent of threat to health and safety upon subsequent inspections. It is based on rule provisions or standards contained in the Minnesota Uniform Fire Code for residential occupancies. Minnesota Statutes, section 245.783, subdivision 3, prevents the licensing of a residence when the "health, rights, or safety of a resident is threatened." It is necessary, therefore, when a hazardous condition is cited by the experts specified, that it be corrected prior to licensure.

Subpart 3. Study of the applicant. Minnesota Statutes, sections 245.783, subdivision 3, and 245.804, subdivision 1, require the commissioner to conduct a study and evaluation of the applicant and residence prior to granting a license. The local agency has been designated to assist the commissioner with the study in Minnesota Statutes, section 245.783, subdivision 3.

Item A. Minnesota Statutes, section 245.783, subdivision 3, requires the commissioner to conduct a criminal history check of each applicant; operator; household member and caregiver; and requires the Bureau of Criminal Apprehension; a county attorney; a county sheriff or a chief of a local policy department to assist the commissioner by providing all criminal conviction data, arrest information, and other criminal history data on these individuals. Minnesota Statutes, section 245.804, subdivision 2, further requires operators and applicants to cooperate with all evaluations conducted, including evaluations concerning the character and qualifications of the personnel of the residence. Subdivision 2 states, "failure to comply with the reasonable requests of the commissioner in connection with the study and inspection is cause for revocation of license or for a denial of application." This provision is necessary to inform applicants, operators, and others of the nature and extent of the criminal history check and to implement the criminal history evaluation required in Minnesota Statutes, section 245.783, subdivision 3. The name, date of birth, and other information specified are minimum requirements to enable the commissioner and sheriff or chief of police, and Bureau of Criminal Apprehension and FBI, if necessary, in obtaining accurate data. It is necessary to limit the number of authorities who may be compelled to assist the commissioner in the criminal evaluation to limit unnecessary delays and paperwork costs related to the licensing process. Five years is a reasonable limit to place on obtaining national criminal data which may disqualify an applicant or opera-

tor from licensure because it is consistent with the five year prohibition for granting a license to an operator whose license was revoked because of noncompliance with applicable rules (or laws) prescribed in Minnesota Statutes, section 245.801, subdivision 6.

Item B. This provision is necessary to aid the commissioner in determining if behavior or conditions are present which may jeopardize the health, rights or safety of residents. Social history information may justify further evaluation of a caregiver or household member prior to licensure, as specified in subpart 5, if the information indicates there is reasonable cause to believe that the operator, a caregiver, or a household member may jeopardize the health, rights, or safety of a resident. Information on an applicant's and caregiver's past or current education status may aid the commissioner in determining the person's ability to meet a resident's individual care and supervision needs. Employment and financial information aids the commissioner in determining the amount of time an applicant or caregiver will spend in the residence (and the amount and extent of supervision provided to a resident), and whether there are financial circumstances which may prevent the applicant from providing proper nutrition, household services and the ongoing daily maintenance needs of a resident. Information on military service, mental health status, chemical dependency, hospitalizations, involuntary termination of parental rights, arrests, admissions, convictions and substantiated instances of neglect or abuse aid the commissioner in determining whether an operator, caregiver, or household member meets the qualifications in subpart 4.

Item C. This provision is necessary to aid the commissioner in determining whether the members or employees of a partnership, corporation, or governmental unit who are giving care to residents or are responsible for the operation of the residence meet the requirements in subpart 4, and to protect the health, rights, and safety of residents. Making available the names and addresses of all owners and board members of a partnership or corporation, an organizational chart and personnel policies enables the commissioner to determine responsibility within the corporation, partnership, or government unit and whether the partnership, corporation, or governmental unit can ensure proper nutrition, sanitation, and other health and safety needs of residents, and whether the persons in the partnership, corporation, or governmental unit with decision-making authority on matters pertaining to the operation can meet the needs of a resident. Making available the names and addresses of all employees involved in the operation of the adult foster home, their personnel records and job descriptions, and the staffing pattern used in the adult foster home also enable the commissioner to determine whether the employees meet the requirements in subpart 4, and whether the job descriptions and staffing pattern will be responsive to the needs of functionally impaired adults seeking admission to the adult foster home.

Item D. This provision is necessary to protect the health, rights, and safety of residents. Requiring three references is not unduly burdensome on applicants, is consistent with common employment practice, and aid the commissioner in determining whether the applicant will be able to comply with the rule parts or whether further evaluation may be necessary.

Subpart 4. Qualifications. This subpart is necessary to clarify what requirements of the operator, caregivers, and household members are essential

to the health, rights, and safety of residents. The qualifications contained in this subpart were recommended by the adult foster home rule advisory task force, caregiver qualifications committee, at meetings held on June 28, July 8, and September 4, 1985. (Exhibit D.). Because a variety of persons may have contact with residents, it is necessary to specify to whom these factors could be applied. It is reasonable to apply these qualifications and requirements to persons actually living in the residence, working with residents, or directly involved in the day-to-day operation of the home. The occasional visitor, friend, acquaintance, or spouse not meeting these qualifications and requirements, but in contact with a resident, should not preclude the operator from obtaining a license or caregivers from giving care.

Item A. This provision is necessary and reasonable to protect the health and safety of residents. Giving care to residents, all of whom are 18 years of age or older and require varying degrees of care and supervision, necessarily requires that the operator and caregivers be sufficiently physically and emotionally mature to assist residents with their daily routine and special needs and able to accept legal responsibility for another person's health and safety. Requiring operators and caregivers to be at least 18 years of age is a reasonable way to respond to these needs. A person who is 18 years of age is recognized as an adult according to Minnesota Statutes, section 645.451. The attainment of adult status is a commonly-accepted criteria for predicting that a person will be mature in behavior and judgment.

Item B. This provision is necessary to safeguard the health of residents. The adverse risk of exposure to reportable communicable disease from persons providing care to residents and from others regularly in the residence must be minimized. For this reason, a physical exam is required of all caregivers providing 30 days or more of care or service per year, and of household members. The requirement that the examination occur within 12 months prior to application for licensure or employment within the home, and be repeated at least once every five years is reasonable because it provides current information about the health of the caregivers and household members and a mechanism for periodic updating of health information in the event that physical exams indicating the absence of reportable communicable diseases are not regularly obtained by a caregiver or household member. A tuberculine test is not required, but was considered and rejected by the adult foster home rule public advisory task force, health and safety issues committee, at its July 25, 1985, meeting. (Exhibit D.). Mike Tripple of the Minnesota Department of Health, a member of the health and safety issues committee, indicated that the tuberculine test requirement is no longer considered necessary by the Health Department's tuberculosis control program given the relatively small incidence of outbreak and the small, isolated foster home setting. Reference to health department rule parts 4605.7000 to 4605.7800, which govern statewide responsibilities for reporting, investigating, and controlling communicable disease, assures consistency with Department of Health rules governing diseases required to be reported by physicians, other health care professionals, schools, and facility operators.

Item C. Minnesota Statutes, section 245.783, subdivision 3, requires the commissioner to conduct criminal history checks of applicants,

operators, caregivers, and household members. Minnesota Statutes, section 245.804, subdivision 2, requires operators and applicants to cooperate with these evaluations. If the persons so specified refuse to provide information for a criminal history check, the commissioner cannot comply with the statutory requirement.

Item D. This provision is necessary to protect the health, rights, and safety of residents. It is reasonable because persons with a history of or substantial evidence indicating behavior of a neglectful or abusive nature pose a risk to the health, safety or rights of residents in care. The provision is reasonable in that it is the same as that adopted for family and group family day care homes for children contained in part 9502.0335, subpart 6, item E, and is consistent with the standard for foster family homes for children contained in 9545.0090 (1).

Item E. This provision is necessary to protect the health, rights, and safety of residents. It is reasonable because it clearly specifies those acts and statutes which directly relate to the operation of an adult foster home, fitness to perform the duties and responsibilities of operators, caregivers, and household members, and the protection of the health, rights, and safety of residents. Minnesota Statutes, section 245.783, subdivision 3, permits a license to be issued only if "the health, rights, and safety of persons to be served are not threatened." Minnesota Statutes, section 245.801, subdivision 4, permits the revocation, suspension, or denial of a family foster care or family day care license upon "reasonable cause," and the immediate suspension of a license if the commissioner finds that the health, rights, or safety of persons to be served are in "imminent danger." It is reasonable to apply these standards for revocation, suspension, and denial to adult foster homes in light of the state's public policies to protect functionally impaired adults from abuse, under Minnesota Statutes, section 626.557, as well as children, under Minnesota Statutes, section 626.556. Therefore, the adult foster home rule public advisory task force recommended that operators, caregivers, and household members be held to criminal history requirements similar to those in the current department rule governing licensure of family day care operators for children, parts 9502.0315 to 9502.0445.

Minnesota Statutes, sections 609.185 to 609.345, 609.365, 609.377, and 609.378 include murder, manslaughter, aiding a person in suicide or attempted suicide, crimes against the person (assault, mistreatment of persons confined, mistreatment of residents or patients, use of drugs to injure or facilitate crime, robbery, kidnapping, false imprisonment, depriving another of custodial or parental rights, and abduction), crimes of compulsion (coercion, attempt to coerce, and interfering with religious observance), sex crimes (sodomy, bestiality, leaving the state to evade establishment of paternity, prostitution - related offenses, and criminal sexual conduct), and crimes against the family (incest, malicious punishment of a child, and neglect of a child). Inclusion of these crimes is reasonable in that it follows the recommendations of the adult foster home rule public advisory task force, and because such assaultive acts against a person would present a risk to the health, rights, and safety of residents. These crimes are also included in the current family day care rule, and in the definition of "crime against the person" found in the Minnesota Commitment Act of 1982, Minnesota Statutes, chapter 253B. Under the Minnesota

Commitment Act, anyone tried for a crime against the person and acquitted pursuant to a verdict of not guilty by reason of mental illness is presumed to be "dangerous to the public."

Minnesota Statutes, sections 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, and 609.821 include theft and related crimes (theft, possession of shoplifting gear, bringing stolen goods into the state, receiving stolen property, embezzlement of public funds, and rustling and livestock theft), and financial transaction card fraud. Inclusion of these crimes is reasonable because many operators and caregivers will be assisting residents with safeguarding cash resources and offering overall protection and safety for personal possessions within the residence. The adult foster home rule public advisory task force recommended that theft and related crimes be included to provide minimum assurances that residents' cash resources and personal property will be protected. These crimes are not included in the family day care rule because providers of child day care do not usually assist with cash or personal property of children.

Minnesota Statutes, sections 609.561 to 609.563, 609.582, and 609.59 include criminal damage or trespass to property (arson, burglary, and possession of burglary tools); sections 609.625 and 609.63 include forgery and aggravated forgery. Inclusion of these crimes was recommended by the task force and is reasonable to provide minimum assurances that residents' cash resources and personal property will be protected and, in the case of arson, to protect the health and safety of residents, many of whom are mobility impaired or have other physical or mental impairments that may limit their ability to evacuate the residence in the event of fire.

Minnesota Statutes, sections 609.687, 609.71, and 609.713 include crimes involving public misconduct or nuisance (adulteration, riot, and terroristic threats). Inclusion of these crimes was recommended by the task force and is reasonable because such assaultive, violent acts against a person or the public would present a risk to the health, rights, and safety of residents, who are especially vulnerable to physical and mental abuse and threats of abuse.

Minnesota Statutes, sections 617.23 and 617.246 include indecent exposure and use of minors in sexual performance. Inclusion of these crimes was recommended by the task force and is reasonable because they are acts of obscenity which would present a risk to the health, rights, and safety of residents, who are especially vulnerable to sexual abuse.

Minnesota Statutes, sections 152.09, 152.096, and 152.097 include crimes involving the possession, use, sale, manufacture, and distribution of illegal drugs and simulated illegal drugs. Inclusion of these crimes was recommended by the task force and is reasonable because such acts present a risk to the health, rights, and safety of residents. Operators, caregivers, and household members involved with illegal drugs that may cause impairments in judgment or physical capabilities would put residents at risk in the event of an emergency and may present a risk to resident in need of medication assistance.

It is necessary and reasonable to require that operators, caregivers, and household members not be awaiting trial or have a conviction of or

admission of any same or similar crime listed in the laws of another state or of the United States or of another country. It would be unreasonable to permit a convicted murderer from Wisconsin, who relocates to Minnesota, to operate, provide care in, or live in an adult foster home if a person who was convicted of a similar offense in Minnesota would be disqualified from licensure or providing care (subject to evidence of rehabilitation). A similar argument exists for operators, caregivers, and household members who have immigrated from Canada (or other countries) where they were convicted of similar crimes. Failure to include this provision would actually discriminate against Minnesota residents who want to be operators, caregivers, or household members, and more importantly, fail to provide adequate protection to residents. The Minnesota criminal code also recognizes convictions under similar federal and state statutes for purposes of determining whether a person has a "prior conviction" or whether a conviction is a "second or subsequent offense"; see, for example, Minnesota Statutes, section 609.346, subdivision 3, (relating to prior convictions under statutes similar to sections 609.342 to 609.345). In addition, where "elements of both law and fact are identical," the criminal code recognizes convictions and acquittals under the laws of "another jurisdiction" for purposes of barring prosecution for the (similar) crime in Minnesota under section 609.045.

Item F. This provision is necessary to ensure the health, rights, and safety of residents. The provision is in the current department rule governing licensure of family day care homes for children, parts 9502.0315 to 9502.0445, and was recommended by the adult foster home rule public advisory task force. Termination of parental rights is a legally-defined process outlined in Minnesota Statutes, sections 260.221 to 260.245. Such terminations are based on behavior or conditions manifested by the person that are deemed to be permanently detrimental to the physical or mental health of the child. It is reasonable to conclude that a person who has been judged unfit to care for his or her own child would also not be fit to care for a functionally impaired adult.

Item G. This provision is necessary to ensure the health, rights, and safety of residents. A diagnosis of mental retardation or a related condition is an indication that the operator or caregiver is not mentally capable of assuming responsibility for and caring for a functionally impaired adult. However, a diagnosis of mental retardation should not automatically be a factor for license denial or disqualification as an operator or caregiver. The intent of this provision is to disqualify a person who has a diagnosis of mental retardation from being an operator or caregiver only if the person's mental limitations would have a negative affect on the person's ability to make sound judgments on matters affecting residents or on ability to give proper care. The provision is reasonable and was recommended by the adult foster home rule public advisory task force, because it provides for a verifiable measure, as opposed to a discretionary interpretation, of mental retardationand related conditions. The provision has been reviewed and approved by the Department's mental retardation division for enforceablility and suitability to the adult foster care setting. The mental retardation division concluded that a person who is both diagnosed as a person with mental retardation or a related condition and receiving services under parts 9525.0015 to 9525.0145 (also known as Rule 185) is not qualified to be an operator or caregiver in an adult foster home because he or she has already demonstrated that he or she too, is functionally impaired and in need of services.

Item H. This provision is necessary to ensure the health, rights, and safety of residents. A diagnosis of mental illness may be an indication that a caregiver is not capable of assuming responsibility for and caring for a functionally impaired adult. However, a diagnosis of mental illness should not automatically be a factor for license denial. The intent of this provision is to deny licensure if a caregiver or household member has a diagnosis of a mental illness and the person's condition affects or may negatively affect the ability to make sound judgments and give proper care. License denial for mental illness of a caregiver or household member that is having or may have a negative effect on residents was recommended by the adult foster home rule public advisory task force. The provision is reasonable because it provides a verifiable measure of illness, as opposed to discretionary interpretation of "emotional instability." The intent of this provision is to mandate the study of the situation by the commissioner and consultation with a psychiatrist or licensed psychologist as authorized in subpart 5 to allow the commissioner to determine whether there is evidence to indicate that the mental illness is, has, or may have a negative impact on the ability to care for a resident. This provision is reasonable because it differentiates between mental illness which does and does not (or no longer) affects the ability to give care. The provision has been reviewed by the department's mental health division and Dr. Fred Ferron, medical director of the state hospital system.

Item I. This provision is necessary to ensure the health, rights, and safety of residents. The intent is to disqualify from licensure those operations with persons who are misusing or dependent on drugs or alcohol and there is resultant negative behavior or inability to give proper foster care. Part 9530.2500 defines an intoxicated or inebriated person as someone "incapable of managing his or her own affairs or unable to function in an effective manner because of the use of a psychological or physiological dependency-producing drug, including alcohol." Such behavior would clearly jeopardize the health, rights, and safety of residents. However, clarification of what is meant by "psychological or physiological dependency-producing drug, including alcohol," was necessary. The provision is reasonable in that it prohibits licensure due to the abuse or misuse of a specifically controlled substance which is affecting the ability to give care. The provision does not totally exclude chemical or drug use of any form by a household member, operator or caregiver. Drugs and chemicals may be used to control allergy or illness or may be taken in moderation as the law allows. This provision has been reviewed by the department's chemical dependency division and recommended for consistency with the statutory references cited.

Subpart 5. Evaluation for cause. This provision is necessary to ensure the health, rights, and safety of residents. It specifies those mental health, chemical dependency, social, and family disfunctioning experts who may be used by the commissioner to aid in the determination of behavior or conditions which may negatively affect the health, rights, or safety of a resident. It is necessary that examinations be conducted by persons trained, certified, licensed, or otherwise qualified to give such advice. It is reasonable to allow the commissioner to consult with and seek the expert advice of others qualified to make a judgment in these areas. The department recognizes the need to regulate who may perform these functions by requiring licensure, certification, or training.

Subpart 6. Zoning. This provision is necessary to specify what zoning provisions apply to adult foster homes so the local agency and applicant are aware of them and may comply. It is reasonable because it is consistent with Minnesota Statutes, section 245.812, subdivisions 2, 3, and 4.

Subpart 7. Period of licensure; nontransfer. Minnesota Statutes, section 245.783, subdivision 4, states that a license shall remain in force for up to one year. Subdivision 6 prohibits transfer of the license to a new operator or location. It is necessary for the applicant, operator, and local agency to understand the provisions of licensure and reasonable that the statutory requirements be delineated within the rules so the requirements are complied with.

Subpart 8. Provisional license. Minnesota Statutes, section 245.783, subdivision 3, authorizes the commissioner to make an initial license provisional if the applicant fails to comply with applicable laws and rules immediately, but can and will meet the requirements within one year or less, and the deviations do not threaten the health, rights, or safety of persons to be served. It is necessary and reasonable to state that the deviations must not threaten the health, rights, or safety of the residents so the applicant and local agency are aware of the provision contained in M.S. 245.801, subdivision 4.

Subpart 9. Variances procedure. Minnesota Statutes section 14.05, subdivision 4, authorizes the commissioner to grant a variance to a rule and states that "before an agency grants a variance, it shall adopt rules setting forth procedures and standards by which variances shall be granted and denied." This subpart specifies the procedures for requesting a variance that the applicant or operator shall use.

The procedures outlined in items A, B, and C are reasonable because they clearly delineate the process that should be followed by an applicant or operator for transmission and review of a variance request. It is the responsibility of the operator to ensure the health, rights, and safety of residents, and is, therefore, the operator's or applicant's responsibility to identify the equivalent alternative means to ensure the health, rights, and safety of residents if a variance is requested. Items A, B, and C were developed in consultation with the respective administration (building code) health, and public safety departments. Expert evaluation of the adequacy of an equivalent alternative to the agreed upon rule parts designed to protect the health or safety of residents is necessary so the health, rights, and safety of residents is ensured. The department is not expert in the areas of health, building or fire codes. Concurrence and approval of the equivalent alternative measures is necessary from a person in that field of specialization.

Subpart 10. Variance standard. This provision is necessary so those seeking a variance know what the standards are for granting the variance. Expert concurrence with the adequacy of any alternative is necessary to ensure health and safety. Minnesota Statutes, section 245.783, subd. 3, states that a license may be issued if rules and laws are substantially met and deviations do not threaten health, rights or safety of residents in care.

Subpart 11. License terms. Minnesota Statutes, section 245.783, subdivision 5, requires the license to prescribe the number and age groupings of persons who may receive care at any one time. Subdivision 6 requires the license to state the date of expiration, the location of the residence, the name and address of the operator, and the rule or rules under which the program is licensed. Including in these rule parts the license terms are necessary and reasonable to assure that the operator and local agency are aware of the statutory requirements.

Subpart 12. Change in license terms. The operator is required to comply with the terms of a license issued by the department. The terms specified on the license are key, critical conditions. The terms of licensure are indications of responsibility for the care and protection of residents. Prior to or in conjunction with any change of these terms, it is necessary that the commissioner give approval. It is reasonable to require approval prior to a change in location of the adult foster home residence so reasonable evaluation and inspection for health and safety occurs. License transfer to another operator or building is not acceptable because legal responsibility must be known and the specified licensing study conducted. An addition of another person to the residence alerts the commissioner to the need for the criminal history checks and any other necessary examinations or evaluations.

Subpart 13. License renewal. Minnesota Statutes, section 245.783, subdivision 1, prohibits operation of an adult foster home without a license. A license may be issued for up to one year. Subdivision 3 requires a study of the applicant and residence before expiration of a license. This is a necessary requirement to ensure continued compliance with parts 9555.5105 and 9555.6105 to 9555.6265. To place the requirement in these rule parts is a reasonable way to make the local agency and operator aware of the time frame for periodic studies and evaluations.

9555.6135 NEGATIVE LICENSING ACTIONS

Subpart 1. Definition. This subpart further clarifies those actions which would cause the operator to cease or suspend operation. The actions are delineated in Minnesota Statutes, section 245.801, subdivision 4. The definition is necessary and reasonable to provide an exact meaning and avoid confusion of the meaning of "negative licensing action" in the context of part 9555.6135.

Subparts 2 to 5. Minnesota Statutes, section 245.801, outlines precise procedures for the commissioner to use when a license is revoked, made probationary, suspended, or when an application for licensure is denied. The local agency is the delegated representative of the commissioner. Placing these provisions within the rule makes information about the operator's respective rights and duties clear and is reasonable in that it aids in compliance with the law.

Subpart 6. Correction orders and fines. This provision is necessary so that the negative licensing actions enumerated within the rule parts are consistent with those authorized by statute. Authorization for correction orders and fines is contained within Minnesota Statutes, section 245.805,

and is a reasonable action to include in that it is a moderate means of action to apply. It is reasonable to give operators notice of all negative actions allowed by statute that may be applied.

Subpart 7. Notice of negative licensing action. Negative licensing action results from operator failure to comply with law and rules protecting the health, safety, and rights of the residents. It is necessary and reasonable to notify the residents and their legal representatives, if any, when the commissioner has decided to take such action, to ensure the health, safety, and rights of the residents in care. Notification ensures that residents and their legal representatives are aware of a situation serious enough to put into question the license (which is, in effect, the state's affirmation that the health, safety, and rights of participants are secure) and can take action on behalf of the resident. Since the notice here involves a proposed licensing action, it is licensing data and may be disclosed under Minnesota Statutes, section 13.46, subdivision 4, which classifies as public data all data "pertaining to persons licensed ....under the authority of the commissioner of human services..." Because Minnesota Statutes, section 626.557 specifies detailed and complex procedures in situations where abuse or neglect of participants is reported, referencing the statute here is reasonable.

Subpart 8. Reapplication after revocation. Minnesota Statutes, section 245.801, subdivision 6 specifies that an operator whose license has been revoked because of noncompliance may not be granted a new license for five years following revocation. It is necessary and reasonable to clarify this statutory mandate within these rules so that operators and local agencies are aware of the time period and will comply.

9555.6155 RECORD ON THE RESIDENCE

Minnesota Statutes, section 245.783, subdivision 3, requires the commissioner to undertake licensing studies and investigations prior to issuing or denying a license. Item A is necessary to verify that the application was made on the form issued by the commissioner and complies with part 9555.6115. Item B contains the information verifying the physical health of caregivers and any household member in the residence on a regular basis as required in part 9555.6125, subpart 4, item B. Item C shows compliance with part 9555.6125, subpart 2. Item D shows compliance with part 9555.6125, subpart 2. Items E and F show compliance with part 9555.6125. Item G shows compliance with part 9555.6125, subpart 2, item D. Items H and I show compliance with part 9555.6155. Item J is necessary to verify compliance with part 9555.6125, subparts 9 and 10. Item K is necessary to verify compliance with part 9555.6125, subpart 4. Item L is necessary to show compliance with part 9555.6125, subpart 3.C. Item M shows compliance with part 9555.6235. Item N is necessary to show compliance with part 9555.6245, subpart 6. Item O shows compliance with part 9555.6235, subpart 1.C. Each of the records listed in items A-O serves as the basis of evaluation of both the adult foster home. The requirement is necessary and reasonable to facilitate the study and investigation required of the commissioner by Minnesota Statutes, section 245.783, subdivision 3.

9555.6165 CAPACITY

Subpart 1. Licensed capacity. It is necessary to set a maximum number of residents for an adult foster home to ensure that functionally impaired adults receive the level of care they need in the residence. 1976 Laws of Minnesota, Chapter 243, section 1, state that the purpose of licensing is to regulate the provision of care and service with respect to protection, proper care, and the habilitation and rehabilitation necessary to health, safety, and development. The capacity of four is reasonable with respect to the requirements for supervision of residents contained in the rule. The most common adult foster home setting is usually a family home with a single caregiver or a caregiver couple as specified in the current rule parts 9555.6100 to 9555.6400. An adult foster home setting is chosen for functionally impaired adults who need a "home-like" setting or adults who are coming from an institutional setting and for whom a "normal" environment is desired. Four residents in a home is a natural point to limit capacity because more residents than four in a home would require a Lodging, Food, and Beverage Establishment license from the Department of Health under parts 4625.0100 to 4625.5000. "Family" as defined in section 407 of the Uniform Building Code is "a group of not more then five person (excluding servants) who need not be related by blood or marriage living together in a dwelling unit."

Subpart 2. Capacity of roomers and residents. It is necessary to address the issue of roomers because their presence in the adult foster home influences the environment. It is reasonable to limit the number of roomers to insure a small, home-like setting. If there were no limit, the adult foster home could have a large number of unrelated adults living together which is contrary to the purposes and benefits of adult foster care.

9555.6167 INDIVIDUAL RESIDENT PLACEMENT AGREEMENT

This provision is necessary to make those seeking licensure as adult foster home operators and those currently certified aware of the process for placement of residents in adult foster homes. Though an adult may privately seek admission to a home, the Department needs to assure that placements are made in an appropriate and consistent manner. A written record outlining the agreements made by the resident, resident's legal representative, and the operator at the time of placement are needed for clarity and to serve as a reference should there be any misunderstanding at a later date about the terms of the placement. It is reasonable to place this provision in the rule parts governing the adult foster home operator so he or she is aware of the provision and may comply.

9555.6175 COOPERATE AND REPORT TO AGENCIES

Subpart 1. Cooperating with the service agency. It is necessary to state that adult foster home operators and caregivers must cooperate with the service agency in the care of certain residents so that there is coordination and not conflict in the administration of a resident's individual service plan. Some residents have goals for placement developed in individual service plans, whether it be to move on to more independent living,

prevent further deterioration, or improve day-to-day living skills. It is, therefore, reasonable to require that the operator cooperate with the implementation of the individual service plan because it is the operator or caregivers who have daily, and in some cases, constant contact with a resident. Without this cooperation, little could be accomplished. In cases where day services or additional programming are involved, as specified, in the resident's individual service plan, caregivers may have to coordinate services with other agency or community persons. Further, it is reasonable to require compliance with service agency requests in caring for residents because the service agency is responsible for the overall planning for and protection of the resident. For those residents who do not have an individual service plan it is necessary that, at a minimum, an individual resident placement agreement be developed and signed for a resident which specifies the adult foster care to be provided by the operator to the resident. This would be developed by the operator, in conjunction with the resident at the time of placement to ensure that there is a clear understanding of the services to be rendered.

Subpart 2. Abuse and neglect reporting. It is necessary and reasonable to notify the operator and caregivers of their responsibility to report abuse or neglect of a resident because a resident in an adult foster home is protected under, and abuse and neglect reporting is regulated by, the Vulnerable Adults Act, Minnesota Statutes, section 626.557.

Subpart 3. Reporting to local agency. The provisions in this subpart are necessary to ensure that the health, rights, and safety of a resident are maintained and to assist the local agency and department in determining continued compliance with these rules. The local agency, as the commissioner's representative, makes annual inspections of adult foster homes. Minnesota Statutes, section 245.783, subdivision 3, requires the commissioner to conduct a study before a license is issued. The study includes determining whether deviations from the rule procedures have affected the safety, health, or rights of residents. Minnesota Statutes, section 245.804, subdivision 2, states that the "study and inspection may involve consideration of any facts, conditions, or circumstances relative to the operation" of the adult foster home. However, during the course of the year, any change in circumstances specified in this rule are considered serious enough to warrant notification to the local agency and may warrant a reexamination or prompt investigation.

A change in the regular composition of the household or a caregiver's employment are conditions regulated because they impact the health, safety, and care of a resident. Five days notice of a change in any of these factors is reasonable. It gives the operator time to adjust to these changes, verify the health of a new regular household member and make any necessary adjustments. At the same time, the local agency receives notice and may decide to restudy or examine the setting, if necessary, to determine continued compliance with the rule parts.

The remaining provisions pertain to direct or immediate threats to the health, rights, and safety of residents. Notice within 24 hours, or immediately, of any of these conditions is reasonable given their critical nature. The safety of residents must be the first consideration and obligation of the operator at all times. Therefore, requiring that the operator

inform the agency of the circumstances and facts of a serious fire or death is necessary so that an immediate investigation of all circumstances and evidence may be made by the department with the assistance of representatives from the appropriate governmental agencies. Notice within 24 hours of a fire that causes damage to the residence or requires the services of a fire department permits the operator to cope first with the emergency situation, and yet gives the commissioner reasonably prompt notice. To have to report all injuries and accidents, regardless of severity, would place an unreasonable burden on the operator and on the commissioner. The reporting requirements are therefore limited to injuries which require emergency treatment by a physician. This policy was recommended by the Health and Safety Committee of the adult foster home rule task force. The limitation is reasonable to prevent an undue burden and yet keep the commissioner aware of the ability of the operator and caregivers to care safely for residents. A change in health status of a caregiver that could affect the care of residents is necessary to report to the commissioner because residents may need supervision, personal care or protection that can no longer be provided in the adult foster home. It is reasonable that the commissioner be given notice as soon as possible because of the need to evaluate and perhaps arrange for other care. Reportable communicable diseases must be reported immediately to protect functionally-impaired residents. The commissioner will need time to evaluate the situation, with the assistance of a health authority and make arrangements as needed; therefore, it is reasonable to require that such situations be reported immediately. The involuntary discharge of a resident may mean that the resident needs assistance to find other living arrangements. Notification to the local agency provides a means to offer services to the resident. Thirty days is reasonable because it gives the agency time to assess the resident's needs and assist by locating other living arrangements and community social services that may be needed. Notifying the agency of voluntary transfer or discharge is necessary so the agency has timely notification of a vacancy.

Subpart 4. Reporting to service agency. These provisions are necessary so the service agency receives timely notice about a resident under its care and oversight. Item A is reasonable because it provides timely notification to the service agency of a resident's needs. Item B is reasonable because it allows the service agency time to assess the resident's current needs and find an alternative placement. Because the resident is in need of adult foster care and the protection it affords, immediate discharge is not humane or suitable unless it is an emergency situation. The agency needs 30 days to secure another placement. This period of time is consistent with common tenant/landlord lease arrangements which recognize "a month's notice" prior to termination of a leasing agreement. For persons who are legally competent and wish to voluntarily leave the adult foster home, three working days notice is necessary to assess the resident's need and search for a new living arrangement. It also allows the agency time to initiate counseling to determine if discharge issues can be resolved without relocation.

9555.6185 ADULT FOSTER CARE TRAINING

This part is necessary to ensure that at least minimum levels of care and service are given in the adult foster home and the protection of residents

is assured. John McCoin, (author of Adult Foster Homes, Human Services Press, New York, 1983), states that better initial and continuing training programs would help adult foster home operators do a better job considering the complex needs of the three main target groups now in foster homes -- the mentally ill, frail elderly, and mentally retarded. [17.] In 1984 the Metropolitan Council completed a report on housing and older people in the Twin Cities area entitled More Than Shelter. [18.] One of their recommendations is . . ."more training should be provided to adult foster care families" (p. 18). Bradshaw, Vonderhaar, Keeney, Tyler, and Harris did an extensive survey of adult foster homes in 1984. Their article in the American Journal of Geriatrics entitled "Community-Based Residential Care for Minimally Impaired Elderly: A Survey Analysis" stated that most of the operator's in their study (73.2 percent) would like to participate in a training program. [19.] Brockett in his article "Issues in Promoting Adult Foster Care as an Option to Institutionalization" states that provider training is important because it helps to welcome new persons into the program and serves to establish support between the new provider and the sponsoring agency. Brockett also states that through training, providers have an opportunity to explore and develop new attitudes, knowledge, and skills that can help them provide higher quality care. [20.] Caregivers are often providing care to residents with a variety of impairments and a wide range of physical and psychological needs. Caregivers must understand these needs and be familiar with various methods of providing care, training, assistance, and support. Caregivers must also learn methods of coping with a resident's problems on a day-to-day basis. Training gives caregivers the opportunity to interact with peers and others working in the adult services field. Social isolation has been consistently linked to maltreatment. Social supports offer assistance to caregivers under stress. This subpart is, therefore, reasonable as a method of informing operators and caregivers of their responsibilities.

Subpart 2. Training requirements. This provision is necessary to ensure a minimum amount of training for all adult foster home caregivers. Given the complex and varied needs of residents, the adult foster home rule task force recommended a minimum of 12 hours per year the first five years of licensure or experience and six hours per year for licensure or experience of six or more years. This is reasonable because of the broad definition of training and the flexibility with possible modes of training. Item C is necessary because caregivers may provide specialized training services in addition to those usually provided in an adult foster home. Examples are services provided within Supportive Living Services for persons with mental retardation (parts 9525.1800 to 9525.1930). It is reasonable to expect that in these instances caregivers would comply with additional training required by the contract.

Subpart 3. Exceptions. This provision is necessary because some caregivers give care to residents for very limited periods of time and in very specialized areas. Without exceptions to this standard, the number of potential caregivers available would be markedly reduced. Exceptions to this standard are in the best interest of residents because there are persons with special skills needed by the residents for very limited periods of time who would otherwise not qualify as caregivers. Caregivers are also needed for short periods of time for the purpose of respite of caregivers who would not be readily available without the exception to the training

requirement. It is reasonable to use 30 cumulative days in a 12-month period as the exception standard because it coincides with the definition of "on a regular basis" in the Public Welfare Licensing Act, Minnesota Rules, part 245.782, and the requirement of a physician's report for "caregiver" in Minnesota Rules, part 9555.6135, subpart 4, Item B. It is also reasonable to use the exception providing a specific service or specific training of eight hours or less a week because this was recommended by the task force as encompassing those part-time persons that assist residents in learning certain living skills.

Subpart 4. Training subjects. This provision is necessary to indicate acceptable training areas that relate to residents in and the provision of adult foster care. The provision is reasonable because it offers a wide variety of subjects that may meet diverse population needs while simultaneously limiting the areas to a set of topics that pertain to the service area in question. The subject list was compiled by the rule task force members.

9555.6195 PROHIBITIONS AGAINST ABUSE, NEGLECT, AND DISCRIMINATION

Subpart 1. Protection from neglect and abuse. It is necessary to inform operators and caregivers that any resident living in a licensed adult foster home is protected by the Vulnerable Adults Act, Minnesota Statutes, section 626.557 and Minnesota Rules, parts 9555.8000 to 9555.8500. It is reasonable to notify operators and caregivers of their responsibilities to protect residents from abuse and neglect and to become familiar with the provisions of the statute and rule parts.

Subpart 2. Nondiscrimination. Minnesota Statutes, section 363.13 provides that Minnesota Statutes, chapter 363 be known as the Minnesota Human Rights Act. Subdivision 18 of section 363.01, defines "public accommodation" to mean a "business, accommodation . . . facility . . . whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public." Applying the Minnesota Human Rights Act to adult foster homes is reasonable given the intent of the statute to prohibit discrimination "within public facilities." It is necessary to state this within the rule so that the operator is aware of the law and may comply.

9555.6205 PHYSICAL ENVIRONMENT

Subpart 1. Residential occupancy. This provision is necessary for the health and safety of residents. it is reasonable that foster care be in a "home" and that the home be in a place designed for and occupied as a dwelling unit in a residential occupancy. Proper sanitation and waste facilities and complete disposal of human waste in a manner which is not hazardous is a reasonable means of minimizing the transmissions of disease to the occupants and, thus, assuring the health and safety of residents. Freedom from ventilation hazard is, at a minimum, a reasonable standard. Ventilation is needed to reduce the spread of disease and to keep toxins, odor, and heat from accumulating. The standard cited, that which is not hazardous, is consistent with that mandated statewide for all residential occu-

pancies. A mechanical system which is not hazardous is necessary to ensure that there is a heat source in the residence that is safe. The standard is consistent with the minimum State Building Code requirements for a residential occupancy. Finally, though an electric source is not mandated for a residential occupancy, if electricity is provided, it must not be in hazardous condition.

Subpart 2. Living room. It is necessary to require that the living room of the adult foster home be available to residents. A general living area is part of a dwelling unit. It is a place where persons living in the home gather for socialization and to experience companionship. It is a reasonable requirement to mandate that residents have access to this room so they have an opportunity to socialize. Without this requirement, residents may be relegated to their rooms and would not feel they were in a home environment.

Subpart 3. Dining area. It is necessary to require that the dining area be accessible to residents so residents do not regularly eat meals isolated in their rooms. It is reasonable to require access to the dining area because mealtime is traditionally a time when social interaction occurs among household members. For some residents, mealtime behavior may be a part of living skills training. Residents are also more likely to eat more nutritionally-balanced meals in the company of other persons.

Subpart 4. Resident bedrooms. It is necessary to include standards on resident bedrooms to ensure a noninstitutional "home-like" environment. The task force recommended that the adult foster home reflect an environment that is similar to the way people live in their own homes. This can be accomplished by giving privacy, promoting independence, and personalizing the resident's surroundings. One of the characteristics of institutional living in the past has been a "dormitory" style sleeping arrangement. It is, therefore, reasonable to limit resident bedroom occupancy to two persons. To emphasize independence, residents should be given the choice of whether to share a bedroom based on their needs, preference, and goals for independent living. The specifications in item A on room size for a single room occupancy was recommended by the task force as a reasonable minimum requirement. The double-room occupancy requirement is reasonable because it is consistent with Department of Health Lodging and Food and Beverage Establishment requirements in Minnesota Rules, part 4625.0900. The ceiling height requirement is reasonable because it is consistent with the State Building Code, section 1207A. It is necessary to specify this standard because the State Building Code is not retroactive to all residential occupancies. Space in older homes which may be designated for sleeping may be far below the minimum standards specified which applies to homes remodeled or constructed after 1972 and to those parts of the state which have adopted the State Building Code. Subitem (2) is reasonable to ensure privacy for each resident. Subitems (3) and (4) are reasonable to provide a sense of ownership to the resident and to personalize the resident's surroundings, subject to safety, building or fire code requirements and other residents' rights or comfort. Item B establishes requirements for the health and personal care needs of residents. It is reasonable for residents to have these items to maximize their independence, personal privacy and self-esteem and for health and safety to minimize the likelihood of disease or infestation transmission.

9555.6215 WATER AND FOOD

Subpart 1. Water. Water is a substance essential to the health of residents. It is necessary that the source of water within the home be safe and sanitary. Because water sources in adult foster homes may not be secured from a municipal supply which is tested regularly for safety, it is necessary to require testing of a private water supply to ensure safety. A water source may be contaminated very quickly. Wells may change rapidly. According to the Department of Health's water supply division, testing every three to six months would not be unreasonable. Annual testing is the very minimal time period recommended by the Department of Health to assure safety. It would be financially prohibitive to test for all possible contaminants of water supplies. There are over 7,000 chemicals which can be found in water. Chloroform bacteria and nitrate - nitrogen are the two most common elements found to contaminate water supplies. They are found in animal and human waste, sewage, and fertilizers. They are usually site specific. Testing costs for these contaminants is minimal and sometimes free of charge and may be obtained from laboratories at the county level. Discretion for retesting is necessary to allow for those cases where the supply may be subject to frequent contamination from off-site sources.

Subpart 2. Food. The proper and timely intake of food within the adult foster home is necessary to ensure the health and well-being of residents. To mandate that three meals a day and snacks be offered is reasonable. This is a recognized community standard. Nutritionally-balanced usually means offering foods from the basic food groups. The basic food groups are endorsed by public health officials. A resident may require a special diet because of food allergy, dental problems, inability to digest certain foods, religion, social or other health conditions which may require a diet different from the one routinely provided in the adult foster home. Because a physician or dietician is qualified to prescribe diets for certain illnesses or conditions, it is reasonable to require that meals be prepared and served according to their instructions. The operator is given flexibility in how the resident receives meals. This is reasonable because residents may be involved in preparing meals as part of their living skills training, in which case the operator would plan meals and perhaps supervise preparation. In instances where a resident is gone for a time during the day, a sack lunch may be the preferred method of offering the meal. Snacks may be needed by some residents who have illnesses or metabolic problems, especially where long periods of time between nourishment may be dangerous, unhealthy, or uncomfortable. Nutritious snacks are required because "junk" foods and "empty calorie" foods would not promote proper nutrition and could be detrimental to residents' health.

Subpart 3. Food safety. This provision is necessary to ensure that there is a standard for the general safe storage and service of food. The intent of the provision is not to outline a procedure or mandate specific methods for food service and storage that are any more prescriptive than those applying to family homes in general. Spoiled and contaminated food should not be served.

9555.6225 SANITATION AND HEALTH

Subpart 1. Sanitation and cleanliness. This provision is necessary to ensure that there is a general, overall standard for the residence. Accumu-

lations of dirt and rubbish provide breeding grounds for vermin, insects, and disease. Peeling paint may be a hazard because it can fall into food and collect dust which may cause allergic reactions in some adults, and interfere with keeping walls clean because of its breaks and cracks on surface paint. Cleanliness refers to removing disease-causing organisms by the "soap and water" method. It is recognized that not all hazardous organisms can be removed in this manner, but the bulk of them and sources of their transmission can be destroyed in this manner. It is not reasonable to mandate a sterile or disinfected environment. Soap and water are readily available and easy to apply.

Subpart 2. Toxic substances. It is necessary to regulate the storage of toxic substances because their ingestion by residents could prove harmful or fatal. It is reasonable to require storage separate from food products to prevent their possible inadvertent substitution for food or the cross-contamination of food products.

Subpart 3. Physical examination of resident. This provision is necessary to ensure the health and safety of residents by documenting that each resident entering the adult foster home is free of reportable communicable disease as specified by the Minnesota Department of Health in Minnesota Rules, parts 4605.7000 to 4605.7800. It is reasonable to require that a resident not previously residing in a health care facility and thus having a transfer record which would contain examination information provided by a licensed physician, have a physician's examination within thirty days of entering the adult foster home. Thirty days is considered "current" by members of the task force including Mike Tripple, assistant director of the health resources division, Department of Health. The task force, recommended that if a resident does not have a physician's statement upon entering the adult foster home, that he or she obtain one within three days of placement. This period allows time to make an appointment and complete the examination while not subjecting other residents to an unreasonable amount of exposure.

Subpart 4. First-aid supplies. The requirements for a first-aid supplies within the residence is necessary so caregivers are able to respond to the needs of a resident in routine injury and emergency situations. Though adult foster home operators strive to eliminate potentially dangerous situations that might lead to accidents, no home environment can be made totally safe. Consequently, it is reasonable to require that the operator have first-aid supplies available in the residence and have directions and a manual available for proper administration so routine cuts and bruises may be attended to. In the event of severe injury, immediate attention is often necessary to stop or reduce bleeding and swelling. The minimal supplies specified are recommended and have been reviewed by the Department of Health's representative, Mike Tripple, and members of the health and safety committee of the task force. A scissors is necessary to cut bandages or compresses, and is often used to removed clothing that may be restricting breath, movement, or circulation. The ice bag or cold pack is frequently applied to reduce or limit swelling that may result in further damage to tissue. The oral or surface thermometer is necessary to verify the severity of illness or fever symptom. Oral or surface thermometers are specified because rectal thermometers are not recommended by health experts because of the risk of intestinal puncture. Soap, when used to clean a

wound, bite, or abrasion, or to remove chemicals from the body surface, should be free of harsh perfumes or detergents. Adhesive tape is necessary to secure bandages and compresses. It is necessary that a first-aid manual be included so appropriate methods and procedures are followed in an emergency. This subpart is, therefore, reasonable to ensure the health and safety of residents.

Subpart 5. Emergencies. This provision is necessary to ensure that the operator is prepared to deal with emergency situations. Item A requires that a noncoin-operated telephone be available in the residence and is necessary to ensure that caregivers or residents are able to call for medical and public safety assistance quickly in emergency situations. Telephone service must be available in the residence so emergency personnel may be contacted while caregivers continue to give care to residents. An operable flashlight is necessary and reasonable to have on hand so residents may be moved to safety or instructions read during a power outage.

Item B. Emergency numbers are necessary because a resident's physician and dentist must be readily available for routine illness, injury, and severe pain or emergencies which may require immediate medical attention. Emergency medical or dental personnel may need to contact and consult with a resident's representative or the resident's regular physician or dentist to determine the most appropriate care and treatment. The resident's representative and the resident's physician and dentist are usually the persons most knowledgeable and responsible for the resident's medical condition.

Item C. Fire, police, and emergency service numbers are necessary in a life-threatening emergency because seconds may be critical to saving a life and calmness may not always prevail. It is reasonable to require that direct numbers be readily available and visible in an emergency. The area next to the telephone is the most accessible place for this purpose.

Item D is necessary to ensure appropriate supervision of residents at all times. Emergency situations develop quickly. The caregiver may have to leave the residence. It is necessary that prior arrangements have been made for substitute care of residents so continued and consistent safety is assured. It is, therefore, reasonable that the operator plan for and make arrangements in advance for the care of residents in emergency situations.

Item E is necessary because during storms or other severe weather residents may be subject to harm from falling objects or breaking glass. During severe weather or tornadoes, the national weather service recommends a number of places within a residence that are suitable for cover. Where these places are must be designated so caregivers and residents may use them in emergency situations. The areas should be protected and large enough to accommodate all occupants.

Items F, G, and H. Escape plans are necessary and reasonable to ensure that the operator has planned for and is able to protect and properly care for adults in fire situations. Since a fire may occur rapidly, it is essential that a plan be formed in advance and caregivers are trained to implement it. Written plans and a log of fire drills verify that planning, training, and the communication process have taken place with residents. Bob Imholte, task force member and representative of the fire marshal's

division, recommended quarterly fire drills for functionally impaired persons, and the other task force members concurred. The National Fire Protection Association in the publication Operation EDITH-which stands for Exit Drills In The Home notes that escape plans should include escape route designation to avoid confusion maximize speed and efficiency of egress, and reduce the risk of harm by fire and smoke. Emergency numbers and a uniform, known meeting place to aid in the knowledge that all occupants have been evacuated and accounted for is also recommended. An emergency escape plan for each resident in apartment buildings was a provision recommended by task force member Bob Imholte, fire marshal's division, and Tom Joachim, building code administration, because residents may have unique needs due to disabilities, may need certain types of assistance, and this should be carefully thought out prior to an emergency. The individual resident will need to practice an escape plan if the resident has severe impairments and other accommodations outside of the dwelling unit may need to be considered.

Subpart 6. Individual personal articles. The operator has the responsibility to protect the health of residents in care. To carry out this responsibility, the operator must reduce, to an acceptable minimum, agents that spread infections among adults. Impaired adults may be more susceptible to disease than other adults. Diseases and infestations are spread through contact with contaminated articles, hands, and excretion, including saliva, feces, and urine. The personal articles cited come into close contact with the resident and may become contaminated with bacteria, viruses, or parasites. Requiring these individual articles for residents is, therefore, reasonable.

Subpart 7. Pets. The presence of pets in the adult foster home setting may be beneficial as an opportunity for responsibility or as a source of companionship. This provision is reasonable because not all residents may like or tolerate pets and this could affect their decision to reside in the adult foster home. Residents may be allergic to certain kinds of animals and this could affect their decision to live in the adult foster home. It is, therefore, reasonable to require prior notification of the presence of pets.

Subpart 8. Resident's medication. This provision is necessary to ensure development of self-care skills and to protect the health and safety of residents who cannot manage their own medication. The task force recommended that residents should be encouraged to manage their own medication, if at all possible, to promote and maintain self-care. On the other hand, a large proportion of residents who use foster care need assistance to take medication properly. It is, therefore, necessary to ensure adequate protection for residents who are given medication assistance by caregivers. These provisions were recommended by task force member Mike Tripple, assistant director of the health resources division, Department of Health.

Item A. It is reasonable to require that the operator receive instruction or prescriptions from a resident's physician because that is the source of the prescription and the physician is most likely to be able to judge whether a resident can be responsible for taking his or her own medication or needs assistance. This process also transmits the information on a resident's medication needs to the operator and caregivers. Item B is necessary to ensure that the resident is aware of and concurs with the assistance

given. In a family situation where a member is not able to self-medicate, another family member would give the medication. It is, therefore, reasonable in item C that, in an adult foster home, a caregiver could give medication when a resident cannot self-administer and permission be obtained from the resident or the resident's legal representative. A caregiver cannot reasonably be expected to prescribe prescription medicines or be qualified to advise on their use. Therefore, it is reasonable to require written instructions from the resident's physician or dentist on prescriptions to be certain the medication is given properly and that the health of the resident will be monitored by a licensed professional.

A permanent record of medication (item D) is needed to document how the resident is taking the medication and if it's being taken as prescribed by the residents' physician without relying on the memory of the caregiver. The medication record must include information on the consequences of not taking medication as prescribed so that the caregiver can report such instances to the physician within the optimum time required. It is reasonable to require that notations on medication, as to starting and stopping, changes, and adverse reactions, be kept in the record so that the resident's physician will have specific information on which to base the resident's diagnosis and treatment plan. This record would also be available to emergency medical personnel in treating a resident in a medical emergency.

Items E. and F. Medication can have serious side effects. For example, medications may cause an allergic reaction in some persons. These allergic reactions are unpredictable and can prove to be serious. Medication may also interact with other chemicals causing potential dangerous reaction. This can happen when different professionals prescribe drugs and are not aware of what other drugs the resident may be taking. Occasionally, some persons may not be able to tolerate certain dosages of a medication or may not be able to tolerate the medication at a certain time. Only a physician can evaluate the seriousness of a situation and make appropriate adjustments or substitutions in medication. It is, therefore, reasonable to require the reporting of adverse medication reaction immediately to the resident's physician. If a resident refuses to take medication as directed, it may threaten the resident's life or health. Certain medications are antipsychotic and prevent a resident's behavior from being dangerous or threatening to others. Medications taken for these reasons are serious and any disruption in the recommended schedule must be reported to the physician who can evaluate the situation and prescribe an immediate course of action. The local agency must be notified because refusal to take needed medication may require adult protection services from the local agency and the placement may have to be evaluated or other referrals made. Some medications, on the other hand, are necessary but disruption of a prescribed ingestion schedule would not endanger the resident or others and would not need to be immediately reported to the resident's physician. This provision is reasonable because it provides the flexibility needed to take into account the seriousness of the situation.

Item G. Injectable medications must be handled with caution because reactions act so rapidly. Unlike other medications that are absorbed slowly through various bodily tissues, injectable medications enter the circulatory system almost immediately. Improper handling or measuring can result in an injurious or fatal reaction. This means that persons giving injections must

have training so they will be able to administer the injectable medication properly. One method of ensuring training is to require a current Minnesota nurse's or LPN's license. To hold a license a nurse or LPN must have training in the administration of injectables. Another method is to require that the caregiver have training by the resident's physician or physician's staff. The health and safety of the resident must be protected in these potentially dangerous situations and the authorization must be as specific as possible. For this reason, the requirement that the caregiver must be specifically authorized to give specific injections has been added. The documentation for the authorizations and instruction of the caregiver by the physician or the physician's staff is a reasonable way of determining compliance with the rule. To confirm that these procedures were acceptable to health officials the following were contacted: Lorene Wedeking, assistance director, Public Health Nursing, Minnesota Department of Health; Joyce Showalter, director, Minnesota Board of Nursing; the International Diabetes Center; Jack Breveu, attorney for the State Board of Pharmacy; and David M. Ziegenhagen, executive director of the Minnesota Board of Medical Examiners (Exhibit Y). These persons believe that these procedures are satisfactory in an adult foster care setting. It is unlikely that caregivers would be called on to give injectables in many adult foster home situations. However, given the functionally impaired population, it may be necessary in some instances. Procedures for caregivers who perform this service are necessary. It could, for example, mean the difference between living in an adult foster home and living in a more restrictive setting. This standard is reasonable because it provides measures to ensure safety yet provides enough flexibility for unusual situations.

Subpart 9. Storage of medication. It is necessary to require the proper storage of medication to ensure the health and safety of residents. Schedule II controlled substances listed in Minnesota Statutes, section 152.02, subdivision 3, are often subject to abuse and are highly addictive according to David Holstrom, executive director of the Board of Pharmacy, a registered pharmacist and attorney. Holstrom stated that under state and federal regulation these substances are subject to strict storage requirements. Manufacturer's directions also recommend security when storing these substances. Because these substances are often subject to pilferage by potential abusers and because residents and others could misuse them, this standard is reasonable.

Subpart 10. Weapons. It is necessary to require the safe storage of weapons to ensure the health and safety of residents. Weapons are dangerous items in the hands of persons not responsible for, or knowledgeable about, their proper use because they can kill or severely injure. Certain residents in adult foster homes may be mentally ill, have depression, or suicidal tendencies. Weapons should not, therefore, be accessible for those who might use them impulsively. The provision for storing weapons in locked areas, not visible to residents, is reasonable because it reduces the likelihood that such incidents will occur. The additional provision requiring separate storage of ammunition and firearms on the premises is reasonable because it reduces the likelihood of accidental discharge.

9555.6235 ADULT FOSTER HOME PROGRAM

A written plan is needed so that the operator has a way of letting the commissioner know about the services and level of care that is or may be pro-

vided in the residence. In that way, the commissioner can evaluate the appropriate placement of residents in the adult foster home. The plan informs prospective residents and their legal representatives of the services and care offered by the operator in the adult foster home when selecting a living arrangement. It is reasonable to require that the adult foster home plan be in written form for clarity and consistency. The plan needs to meet the minimum criteria in items A to C, which were recommended by the task force. It is, therefore, reasonable to require that the commissioner approve the plan as a measure of whether the written plan meets the minimum criteria for an adult foster home plan. Items A, B, and C are necessary to meet the minimum information needs of the social worker who is assessing the needs of the prospective resident and matching them with placement options.

Item A is a necessary provision because there are functionally-impaired adults with a wide range of characteristics and impairments. For example, residents might have some of the following conditions: mental retardation, mental illness, a physical handicap, chronic illness, or frailty due to conditions associated with age. Residents may also cover a wide age range. Various operators may have different preferences and different capacities to meet the needs of certain adults. For the sake of efficiency and safety, it is reasonable to require that the operator specify the specific types of impairments in residents that the adult foster home can or wishes handle.

Item B is necessary because adult foster homes may provide a variety of services to adults depending on operator and caregiver ability, interest, and resources. This information is needed by the social worker and the resident or resident's representative in deciding whether a particular adult foster home is appropriate for a prospective resident. For the sake of efficiency and to ensure that the adult foster home meets the definition of "adult foster home" as stated in part 9555.6105, subpart 3, it is reasonable to require that the operator of the adult foster home specify the extent of its services in these areas.

Subitems (1), (2), and (3) are reasonable because all adults have a need for lodging, food, and protection but, residents, because of their disabilities, are likely to have greater needs and fewer resources to meet them. Functionally impaired adults often have considerable needs in activities of daily living and assistance with personal care (4) or household living (5) may be needed. Subitem (6) is reasonable because a functionally-impaired adult has a need for integration into the community and disabilities and impairments can present barriers. Subitem (7) is reasonable because residents usually need continuing contact with their family and friends for socialization, a normal human need. Subitem (8) is reasonable because a resident may need assistance in managing day-to-day cash resources. This may result from illness or disability. Even if the resident has a legal representative, a caregiver may assist in handling a resident's personal needs allowance or regular monthly expenses. Subitem (9) is reasonable because supervision may vary from adult foster home to adult foster home depending on the availability of caregivers. For example, the supervision in a home with an individual caregiver an adult foster home operated by an organization with shift staff. Residents need varying degrees of supervision so this information is needed to make appropriate placements. Subitem (10) is reasonable because most residents do not have automobiles and must depend on

others for transportation. Transportation may be needed to social and health care services or for other appointments or for visits to community resources, family and friends. The adult foster home may not be able to directly provide all transportation needed by a resident. The extent that it can be provided either directly by the operator or via public conveyance must be known. Subitem (11) is reasonable because residents often need supplementary services outside of the services provided by the adult foster home such as counseling, shelter workshops, day care, developmental achievement center programs, doctor or medical appointments. The operator must play a supportive role in obtaining these services through referral, encouragement, and supporting training goals.

Item C is required by Minnesota Statutes, section 626.557.

9555.6245 PERSONAL RECORD OF RESIDENT IN ADULT FOSTER CARE

Subpart 1. General provisions. A written record on each resident is needed to facilitate consistency, promote understanding, cope with emergencies, document services given, and document compliance with regulations and laws. The provision is necessary and reasonable to facilitate the study and investigation for maintaining and licensing a facility required of the commissioner under Minnesota Statutes, section 245.783, subdivision 3.

Subpart 2. Demographic information. This section is necessary to ensure that uniform and adequate information is obtained and maintained on each resident. The information requested assists the operator and commissioner in determining compliance with these rules and aids in proper notification in the event of emergencies or medical attention. Recording where the resident moves facilitates forwarding mail or other property of the resident.

Subpart 3. Medical information. This provision is necessary to protect the resident's health. It is reasonable to have a record of the resident's physician, dentist and other health resources so that they can be contacted in an emergency or to maintain continuity in the resident's routine medical care. It is reasonable to require that health information, allergies and other health risks be recorded to ensure that the resident is not exposed to conditions that might be medically harmful. It is reasonable to require that currently-prescribed medication be recorded to ensure that this information is available for medical care and medical emergencies. Documentation of the resident's physical examination and resident's medication record are needed to determine compliance with rule parts. It is reasonable to record emergency medical treatment provided the resident while in the adult foster home so this information is available for medical personnel treating the resident and for the commissioner to be informed of the resident's medical treatment while in the adult foster home. The medication record requirement is reasonable to ensure that medical personnel treating the resident have accurate information on how the resident has been taking medication in order to make proper treatment decisions.

Subpart 4. Cash resource information. It is necessary to specify a record on cash resource assistance because some residents will receive this help in the adult foster home. It is reasonable to require that personal funds be accounted for in a record so the resident and the resident's legal

representative, if any, may be informed of the resident's petty cash situation. It also gives protection to the resident against possible exploitation or mismanagement by the operator and caregivers.

Subpart 5. Incident reports. It is necessary to specify that incidents be reported because these document compliance with these rule parts and assist in protecting the health and safety of residents. It is reasonable to specify emergency incidents because the commissioner and the resident's legal representative have a right to know about occurrences of an unplanned serious nature that affect the resident and the resident's treatment plan. Vulnerable Adult complaints are required under Minnesota Statutes, section 626.557. Two hours after occurrence is a reasonable time to require recording the incident because it is a short enough period of time so that the incident won't be forgotten and a long enough period of time to allow for assisting the resident after onset of the incident.

Subpart 6. Individual abuse prevention plan. This item is necessary and reasonable because it is required by Minnesota Statutes, section 626.557.

Subpart 7. Individual service plan. It is necessary to require that the individual service plan be a part of the resident's personal record because it represents the agreement for total service delivery between the resident and the service agency. It is reasonable for the adult foster home to have a copy of the original and updated individual service plan because the operator will assist in coordinating and facilitating other services and programming with which the resident is involved. The individual service plan also includes the overall goals of the resident. This information is used by the operator and caregivers in working with the resident toward these goals.

Subpart 8. Individual resident placement agreement. A written record outlining the agreement between the resident and the operator regarding the resident's care in the adult foster home is essential for to ensure that the resident receives the foster care specified and all parties are clear about the care which will be provided. It is, therefore, necessary to require that an individual resident placement agreement be in the resident's personal record.

Subpart 9. Individual mobility check list. This provision is necessary to ensure that the checklist completed in accordance with part 9555.5605, subpart 2 and the results of the survey of the residence and the resident's mobility access needs are on file in the residence.

Subpart 10. Transfer or discharge. This provision is necessary to ensure compliance with rule provisions and a complete status record on the admission and discharge of persons who are or have resided in the home.

Subpart 11. Record storage. It is necessary to require record storage because certain records may be needed by federal, state, and county officials for audit purposes and to document compliance with rule parts. Federal and state regulations require keeping records for three years for medical assistance audit purposes. Because federal fiscal years may not be the same as county, state or the operator's fiscal year, it is reasonable to

require that records be kept four years to take care of any overlaps of time.

9555.6255 RESIDENT'S RIGHTS

This part is necessary because the commissioner is ultimately responsible to protect the health, safety, and rights of residents in care as specified in M.S. 245.801, subdivision 4.

Subpart 1. Information about rights. It is necessary to address how a resident and a resident's legal representative will be informed of these rights to make them effective. Without this information, a resident would be unaware of what kind of care to expect and whether his or her rights had been violated. In addition, the resident could be unaware that he or she was protected by the Vulnerable Adults Act. After being informed of his or her rights, it is necessary to tell a resident where to submit complaints regarding violations of these rights. There must be a uniform procedure for informing all residents. The time when it is most likely to be meaningful is at the time of admission when the resident is being oriented to new surroundings. A resident may have difficulty reading and, therefore, an explanation is a reasonable requirement. Some residents may also wish to have a written description to refer to at a later date or to review from time to time. Because a copy of the statutes addressing the Vulnerable Adults Act would be confusing to many, a summary is needed for clarity and brevity. Summaries are already available through printed department brochures. It is, therefore, reasonable to require that an explanation and copy of these resident's rights and a summary of the Vulnerable Adults Act be given to the resident and the resident's representative at the time of admission. It is also reasonable to give the resident the name, address, and telephone number of the local agency to which complaints may be made so violations can be expediently reported.

Subpart 2. Right to use telephone. The telephone is one of the most fundamental and useful ways to communicate in our society. It is, therefore, necessary to ensure that residents have access to a telephone. A coin-operated telephone could prohibit the use of a telephone in an emergency situation. Keeping in touch with family and friends by telephone is an important way to maintain and develop personal relationships. The telephone is also important for the resident to maintain as high a level of independence as possible. It is, therefore, reasonable that residents have daily, private access to a noncoin-operated telephone. The task force realizes that long-distance telephone calls could be a problem because residents might run up large telephone bills for which there are no funds. The task force wanted to be certain to qualify the use of the telephone for long-distance calls to those for which the resident could pay or were made collect. This is necessary to prevent undue financial obligations on the operator. This standard allows operators to limit long-distance calls to paid for by the resident.

Subpart 3. Right to receive and send mail. It is necessary to address this issue to ensure the resident's privacy. Privacy promotes independence, a sense of security, family ties, and relationships outside of the adult foster home. It is, therefore, reasonable to require that residents be al-

lowed to send and receive uncensored, unopened mail. The task force did not intend to preclude an adult foster home operator or caregiver from assisting the resident, at the resident's request, with certain financial reporting forms for public assistance, Social Security, or other similar benefits.

Subpart 4. Right to privacy. This standard is necessary to ensure that each resident is treated as an individual, in a humane manner with dignity. Functionally-impaired adults need special consideration in these areas to encourage self-esteem and a sense of self-worth, which ultimately promotes and preserves independence. These goals are consistent with the intent of adult foster care. A resident's room must be considered the resident's "own" to promote normalization and establish a trusting relationship with caregivers. Toileting, bathing, and activities of personal hygiene are areas where privacy is important for self-respect and to promote self-care. The task force recognized there are times when it is in the resident's best interest to assist or check on the resident. It is, therefore, reasonable to require that operators, caregivers, household members, and volunteers knock on the door before entering the resident's room or during activities of personal hygiene, except in an emergency or to assist a resident. It is reasonable to require that the type of assistance a resident needs on a routine basis be noted in the resident's record so there is a decision on these matters by the resident and operator thus eliminating any misunderstanding or infringement of a resident's right to privacy.

Subpart 5. Right to use personal property. This provision is needed to foster the "normalization" principle inherent in adult foster care. The "Principle of Normalization" was introduced by Bengt Nirje in the 1960s and refers to the system which serves mentally retarded persons. 21. "Normalization" essentially means having a normal rhythm of the day, normal developmental experiences, and having a range of choices. The task force has strongly recommended that adult foster homes bear as little resemblance to institutions as possible. This implies, for example, that the rooms of residents be personalized. This can be accomplished by allowing residents to keep their possessions in the adult foster home. Being able to select and use personal clothing supports independence and self-care. Use of personal possessions and clothing also provides a sense of continuity and maintenance of identity which are threatened by moving from one residence to another. An important consideration in this standard is setting limits and the task force recommended that space and health, safety and rights of other occupants should dictate the number of personal possessions the resident is allowed to use. This standard is reasonable because it provides flexibility for various adult foster home conditions.

Subpart 6. Right to associate. This provision is necessary to ensure that a resident has the freedom to participate fully, or not participate, in the life of the community and to develop personal relationships. Residents, as adults, have the right to make decisions about how they spend their time and who they spend it with. This is a part of being a responsible adult. To restrict a resident in these activities could promote dependence and limit self-growth and confidence. The task force did not intend this provision to preclude an operator from having "house rules" just as any family-like setting would have. The task force further recommended that the limit be "infringement on the rights of other residents and household members." This standard is, therefore, reasonable because it provides a reasonable amount of freedom for a resident subject to the exercise of the same freedoms by others.

Subpart 7. Married residents. This provision is necessary to ensure the health of residents in an adult foster home setting. A resident must be encouraged to maintain the marriage relationship since this is important to mental and physical health. This may be the strongest tie that a resident has in his or her life. Privacy is basic to maintaining the marriage relationship. Married couples living together in an adult foster home must be given the opportunity to share a room. This allows for the possibility that marriage partners may choose not to share a room and bed. Marriage is a strong, intimate, human relationship that must be recognized and supported.

9555.6265 SAFEGUARDS FOR CASH RESOURCES ENTRUSTED TO OPERATOR

Subpart 1. Determination. It is necessary to specify how a determination is made about a resident's cash resources to protect the resident from exploitation and promote independence and self-care skills. Some functionally-impaired residents need assistance with their finances because they may, for example, be blind, unable to read, or not able to intellectually handle funds. Residents in these situations genuinely need this service from an adult foster home. Other residents are perfectly capable of handling their own funds and have the right to do so. If residents, who are capable of doing things for themselves, are denied such opportunities, dependence is the result. The social worker at the time of initial assessment is in the best position to determine if a resident will need this type of assistance because of the information about the resident that is gathered to develop the individual service plan or individual resident placement agreement. This provision is reasonable because it puts specific responsibility on the social worker who is in the best position to make such a determination.

Subpart 2. Procedures for handling cash resources. It is necessary to develop procedures for handling a resident's cash resources to provide for uniformity once assurance that the resident will not be exploited.

Item A. Receipts are a reasonable requirement because they are a commonly-used method to document a cash transaction. The signature of the resident or the resident's legal representative provide documentation that he or she actually received the cash, saw the amount the receipt was written for, and presumably noted that it was accurate.

Item B. This provision is reasonable because amounts in excess of $300 would probably be difficult for a resident who receives public assistance, Minnesota Supplemental Aid or who is otherwise on a fixed income to replace should these funds be stolen, misappropriated or destroyed in some manner. Excess money in large amounts in the adult foster home might prove to be a target for theft or exploitation. This procedure is consistent with Minnesota Rules, parts 4655.4130 through 4655.4160 governing the licensure of nursing homes.

Item C. It is reasonable that the resident and the resident's representative be allowed access to records on their financial arrangements and transactions because the funds belong to the resident. The resident, or his or her legal representative, has the right to these items. This provision also provides a way for the resident, or resident's representative, to monitor transactions.

Item D. There must be a reporting system established to provide for accountability of a resident's funds. Written statements provide a permanent and ongoing method to document how funds have been received and disbursed. The quarterly time period was recommended by the task force because a resident's personal funds are usually less than $300 per quarter. It would not be reasonable to require monthly reporting of very small amounts. On the other hand, a longer period of time than three months would not assure maintenance of accurate records. Three months is also a period of time that is adequate and reasonable to keep the resident informed of funds for planning purposes and consistent with standard business reporting practices.

Item E. A procedure for disposition of a resident's cash resources and valuables upon his or her death is necessary to facilitate the orderly disposition of the decedent's estate under Minnesota probate laws. Because these resources rightfully belong to a resident's estate, it is reasonable to require that they be turned over to the resident's representative or executor or the administrator of the estate. A receipt is a reasonable requirement for documentation of the transaction.

Repealer and Effective Date. This provision is necessary and reasonable to give those currently-certified operators a reasonable amount of time to come into compliance with the proposed standards. Such operators would have from six months to one year to make the adjustments required. The time recommended is a compromise between the urgency to upgrade standards and to accommodate the need for institutional placement diversions, and the need for time by operators to substantially comply with the health and safety standards. Six to twelve months is consistent with that used in the adopted rule parts governing family day care and child foster care.

SJ/RULE/01

9/15/86
DATE



LEONARD W. LEVINE
Commissioner

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17. McCoin, John, Adult Foster Homes, Human Services Press, New York, 1983, p. 169.

18. More Than Shelter, Metropolitan Council, St. Paul, MN 1984, p. 18.

19. Bradshaw, Barbara R., Vonderhaar, William P., Keeney, Virginia T., Tyler, Lucy S., and Harris, Susan, "Community-Based Residential Care for Minimally-Impaired Elderly: A survey Analysis," American Journal of Geriatrics, Vol. 24, No. 9, 1976, pp. 423-429.

20. Brockett, Ralph G., "Issues in Promoting Adult Foster Care as an Option to Institutionalization," Journal of Housing for the Elderly, Volume 2, No. 1, 1984, pp. 51-62.

21. Nirje, Bengt, "Principle of Normalization" found in the monograph by Kugel, R., and Wolfensberger, W. "Changing Patterns in Residential Services for the Mentally Retarded," commissioned by the President's Commission on The Mentally Retarded, 1968.

EXHIBITS

A. Notice of Solicitation for parts 9555.6105 to 9555.6265 as published in the State Register, May 13, 1985, 9 S.R. 2476.

B. Adult foster home task force members.

C. Notice of Solicitation for parts 9555.5105 to 9555.5705 as published in the State Register, February 24, 1986, 10 S.R. 1760.

D. Minutes of meetings of adult foster home task force for June 5, 1985; June 28, 1985; July 2, 1985; July 8, 1985; July 9, 1985; July 10, 1985; July 23, 1985; July 25, 1985; August 22, 1985; August 28, 1985; September 3, 1985; and September 4, 1985.

E. Minutes of meeting of adult foster care service task force, February 28, 1986.

F. Adult foster care services task force members.

G. Minutes of combined task forces on adult foster homes and foster care services meeting held on June 16, 1986.

H. Minnesota Merit System description of social worker class qualifications, work, knowledge, and ability.

I. Minutes of mobility subcommittee of adult foster home task force, March 26, 1986.

J. Adult Foster Care: A manual for social workers. Prepared by the Northwest Regional Development Commission for the Minnesota Department of Human Services, pp. 1-4.

K. Comments received as a result of the Notices of Soliciation.

L. Proposed certified rule parts as submitted to the administrative law judge for hearing.

M. Proposed certified rule parts as published in the State Register.

N. Statement of Need and Reasonableness.

O. Fiscal Note.

P. Order for Hearing.

Q. Notice of Hearing.

R. Affidavit of mailings.

S. Certificate of mailings.

T. Affidavit of additional mailings.

U. Certificate of additional mailings.

V. Adult Foster Home Survey, Minnesota Department of Human Services, 1985.

W. Field Guide to county social services agency workers, Department of Human Services, adult services.

X. Fiscal Note Survey of Local Agencies

Y. Letter from David Zeigennagen, executive director, Minnesota Board of Medical Examiners, July 18, 1986.

Z. Home Safety Check List.

SNR/SJ/53-55

The following persons may testify at the hearing on behalf of the department or be used as expert witnesses:

Gwen Wildermuth, Social Services Division, Department of Human Services

Julie Harris, special assistant, Attorney General's Office

Jane Nelson, Rules Unit, Department of Human Services

Robert Prouty, Mental Retardation Division, Department of Human Services

Cheryl Nyhus, Licensing Division, Department of Human Services

Dr. Frederick Ferron, Medical Director, Department of Human Services

David Zeigenhagen, executive director, Minnesota Board of Medical Examiners

Robert Imholte, State Fire Marshal's Office, Department of Public Safety

Mike Tripple, assistant director of Health Resources Division, Department of Public Health

Thomas Joachim, State Building Code, Department of Administration

Diane Sprague, Minnesota Housing Finance Agency

Notice of Sol. Homes

Exhibit A

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Natural Resources Boat and Water Safety

Adopted Rule Relating to Lower St. Croix Surface Use

The rule proposed and published at *State Register*, Volume 9, Number 35, pages 1943-1944, February 25, 1985 (9 S.R. 1943) is adopted as proposed.

Pollution Control Agency Solid and Hazardous Waste Division

Adopted Rules Relating to Low Level Radioactive Waste Generator Fees

The rules proposed and published at *State Register*, Volume 9, Number 33, pages 1812-1814, February 11, 1985 (9 S.R. 1812) are adopted as proposed.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Human Services

Outside Opinion Sought Concerning a Proposed Rule Governing Adult Foster Homes

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the agency in preparing a new rule to replace Minnesota Rules, Parts 9555.6100 to 9555.6400, governing standards for adult foster homes. The promulgation of this rule is authorized by Minnesota Statutes, Sections 256.01, Subdivision 4 and 256E.05, and Laws of Minnesota 1984, Chapter 542.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Gwen Wildermuth
Social Services Division
Department of Human Services
4th Floor, Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612/296-0311 (regular business hours)

All statements of information and comment shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

SF-00006-04

DEPARTMENT : of Human Services

PHONE : 296-0311

DATE : 5/6/85

TO : Barry Stern

FROM : Gwen Wildermuth (GW)

STATE OF MINNESOTA

Office Memorandum

Exhibit B
AF Home task force

SUBJECT : Rule advisory committee

Thank you for your recent memos concerning writing the adult foster home rule and for offering to notify Beverly Barker that a rule advisory committee is being set up.

I thought I would let you know who will be serving on the advisory committee so far. They are:

	representing
Linda Molennar, Social Worker, Norman County	rural county
Mary Jo Verschay, DHS	mentally retarded
Kurt Strom, Council for the Handicapped	handicapped
Richard Jochem, Mental Health Advocacy Coalitin	mentally ill
Bob Robertson, DHS	chemically dependent
Marie Knisely, Adult Foster Home Provider	provider
Barbara Kellett, Licensing Worker, Ramsey County	urban county
Tom Joachim, State Building Inspector	

In addition, the following have been contacted for a representative:

Minnesota Association of Adult Foster Care Workers

Minnesota Association for Retarded Citizens

Minnesota Senior Federation

Minnesota Association of Voluntary Agencies

Social Services Supervisors' Association

Minnesota Foster Parents Association

Licensing Division - DHS

Minnesota Department of Health

and

Ramsey County for a resident or former resident to represent a consumer.

This, already makes the task force seventeen members strong. You have suggested Anne Henry of Legal Advocacy for the Developmentally Disabled and Mary Absolon of the Minnesota Nurses Association. As I discussed with you on the telephone, neither of these persons has contacted me. I'm hesitent to add more members unless you know of some particular reason why these persons should serve. There are already two persons representing mentally retarded interests and one person from the Minnesota Health Department representing health interests.

I appreciate your continuing helpfulness and thoroughness immensely.

GW/km

Notice of Sol. Care

Exhibit C

Department of Human Services

Outside Opinion Sought Concerning Proposed Rules Governing Adult Foster Care Services

Notice is hereby given that the Minnesota Department of Human Services is considering a permanent rule governing the administration and provision of adult foster care services to functionally-impaired adults by local county human service agencies.

The rule parts are authorized by Minnesota Statutes, 256.01, subdivision 2.(3); 256.03, subdivision 2 D and C; 256.E.05, subdivisions 1 and 3; and 256.E08, subdivision 1.

The purpose of the rule parts is to ensure that a functionally-impaired adult has access to adult foster homes as a living arrangement; that the adult receives services when selecting an adult foster home; that individualized service and placement plans are developed and carried out; and that community, social and health care services are arranged for in accordance with the individual service and placement plans.

The rule parts set forth the agency's responsibility for foster home development, staffing, training, adult placements, development of the individual resident placement plan, social service requirements and complaints.

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

Gwen Wildermuth
Social Services Division
Department of Human Services
4th Floor, Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612/296-0311 (regular business hours)

All statements of information and comment shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

Department of Human Services

Outside Opinion Sought Concerning Rules Relating to Nursing Home Operating Cost Payment Rate Determination

Notice is hereby given that the Minnesota Department of Human Services plans to promulgate amendments to Temporary Rule parts 9549.0050 to 9549.0059 relating to determination of operating cost payment rates for nursing homes licensed under Minnesota Statutes, chapter 144A or boarding care facilities licensed under Minnesota Statutes, section 144.50 to 144.58 participating in the Medical Assistance Program. Promulgation of these amendments is dependent on passage of legislation which has been introduced in the legislature to extend temporary rule parts 9549.0050 to 9549.0059. If the legislation does not pass, the department will discontinue the amendment process and continue the permanent rulemaking process.

Rule parts 9549.0050 to 9549.0059 are authorized by Minnesota Statutes, section 256B.431, subdivision 6. The department is considering amendments to these rules to clarify the operating cost rate determination process to be used to determine rates for fiscal year 1987 and to update the resident classification system as used in determining operating cost payment rates.

All interested persons or groups are requested to participate. Statements of information and comment may be addressed to:

Jane M. Delage
Rules Unit, Department of Human Services
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55105

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 297-4302. All statements of information and comment will be received until March 10. Any written material received by the Department will become part of the hearing record.

Exhibit D

Rule Development Task Force
Adult Foster Homes
Agenda
June 5, 1985

10:00 - 10:05	Introductions
10:05 - 10:15	Background Information
10:15 - 10:25	Rule-making Procedure/Timetable
10:25 - 10:30	Distribution of information sheets
10:30 - noon	Discussion of Specific Issues (10 - 15 minutes each)

- Age of Provider
- Qualifications of Provider/Disqualification Factors
- Training Requirements
- Fire Inspections/Health and Safety Issues
- Personal Care in Adult Foster Homes
- Residents Medicine
- Requirements for the Physically Handicapped

12:30 - 2:00	Discussion of Items of Concern to Task Force Members
2:00 - 2:15	Break
2:15 - 2:45	Continue Discussion
2:45 - 3:00	Formation of Subcommittees
	Next Meeting

ADULT FOSTER HOME RULE TASK FORCE MEETING MINUTES

June 5, 1985

PERSONS IN ATTENDANCE:

Karina Allen, proxy for Grace Nelson	Senior Federation
Dorothy Bodlovick, proxy for Ralph Willenbring	Minnesota Foster Parents Association
Tom Joachim	State Building Code
Jane Nelson	Rules Unit
Barbara Kellett	Ramsey County Human Services
Bob Robertson	DHS-CD
Barry Stern	DHS-Rule Making
Gwenn Lovetang	Hennepin County Human Services
Cheryl Nyhus	DHS
Julie Harris	AMSSS
Melissa Butler	Student-Foster Care
Bea Jones	Anoka County Human Services
Harvey Glommen	Adult Foster Provider
Robert Imholte	State Fire Marshal
Richard Jochem	MHAC
Mike Tripple	Minnesota Department of Health
Sue Abderholden	Minnesota ARC
Barbara Kaufman	Minnesota Association of Voluntary Agencies
Gwen Wildermuth	DHS

The meeting was chaired by Gwen Wildermuth, State Consultant for Adult Foster Care.

INTRODUCTION AND BACKGROUND

Gwen Wildermuth provided background information about the Rule and general information about rulemaking procedures. The Rule is being developed as a result of a 1984 amendment to the Public Welfare Licensing Act including adult foster homes in those facilities needing to be licensed by the state. The Department cannot delegate the drafting of rules to the task force but rather the role of task force members is to suggest rule provisions based on reality. Rules must be developed with enforcement in mind. Unbridled discretion of the Department is prohibited.

THE PROCESS FOR RULEMAKING

Barry Stern described the rulemaking outlined in the Administrative Procedures Act. Typically, a rule goes through 22 stages before completion. The stages are described in the attached handout "Timetable for Completion of a Permanent Rule with a Public Hearing." The Rule is expected to reach the final stages in July, 1986.

4. Fire Inspections/Health and Safety Issues:

   If a foster home wants to be licensed for four residents, smoke detectors must be placed in each resident's room. Also, there will need to be pull alarms at the front and back doors. Since the installment cost is $1,000.00 to $2,000.00 per home, would that requirement result in adult foster homes with only three or fewer residents?
   Will the state issue start up funds to offset the cost?
   Committee members questioned whether the uniform fire code could be changed?
   Window size limitations are also a problem.
   Variance procedures within the fire code were discussed.
   A Fire/Building Inspections Committee was formed and they will also deal with handicapped issues.

5. Personal Care in Adult Foster Homes:

   The issue of the administration of medications and injections must be resolved.
   What kind of information and training must the provider receive?
   Do records have to be kept?
   What are the liability issues?
   Are foster homes becoming too institutionalized?
   What about medication storage?
   A Health/Safety Issues Committee was formed.
   Michael Tripple, Minnesota Department of Health representative will bring to the committee a recommendation about medications for inclusion into the rule, as well as recommendations about other health issues.

DISCUSSION OF ITEMS OF CONCERN TO TASK FORCE MEMBERS

1. How will Waivered Services Supervised Living Arrangements (SLA's) fit into the Rule?

2. What is a specialized service home? It is in the definitions but not referred to within the body of the rule

3. Should licensing by private agencies be allowed? Some members felt that there was certainly a need for this. The way the Rule is currently written, counties could delegate (contract with) other agencies to license/recruit/train adult foster home providers. The counties, of course, would retain ultimate responsibility. It was mentioned that non-public agencies would be "at the mercy" of the particular county in this matter. The possibility of an adult rule similar to the child placing rule was discussed. There was expression of support for this but it would probably take at least another two years. In the meantime, the question arose whether the state could "certify" adult foster home licensing agencies.

4. Statement of need and reasonableness policy.

5. Timetable for completion of a permanent rule with a Public Hearing

6. A four month calendar.

NEXT TASK FORCE MEETING

The next Task Force meeting will be scheduled in early August.

Respectfully submitted,

BK

Barbara Kellett

BK:dh

Adult Foster Home Task Force
Fire/Building Inspection Committee Minutes
June 28, 1985 - 9:30

Committee members present: Gary Erickson, Tom Joachim, Kurt Strom, Bob Imholte, Gwenn Lovetang, Gwen Wildermuth and guest Suzanne Kasper-Glass.

Gwenn Lovetang was elected chairperson so that Gwen Wildermuth could take minutes.

The following recommendations were made by the committee regarding fire inspections:

1. Fire inspections must be done initially by a fire marshall or his designee because otherwise the agency is taking on too much liability.

2. At the time of relicensing, the licensing worker must review, with the provider, an updated home safety checklist. If there are any changes including physical, structural, mechanical, electrical wiring, or any other cause for concern, then a new fire inspection would be required. (Staff would need to have training on the home safety checklist).

3. Fire inspections should also be required if floor level of residents room were changed or if the licensed capacity was increased.

4. Fire inspection should be required every five years. The fire marshall's office does not have the capacity to provide fire inspections more often, on a routine basis.

5. Wood burning stoves do not need an annual inspection, unless there are questionable safety conditions.

There was discussion by committee members of the 4 resident adult foster home that needs to be inspected as a "lodging house" and therefore needs a manual pull fire alarm and a smoke detector in each room. This costs between $1,000 and $2,000 and is a prohibitive expense for adult foster homes with low reimbursement rates. Gwen Wildermuth passed around a letter written to the State Fire Marshall at the request of Gwenn Lovetang inquiring whether this item in the Uniform Fire Code could be changed to "five or more" for these requirements.

The committee supported language development for "automatic variance renewal" for fire and building inspections by the licensing division.

The committee recommended that building inspections be required only for adult foster homes serving the physically handicapped functionally impaired. This is because all areas of the state are not covered by the Uniform Building Code. According to Tom Joachim, the building inspectors office will have persons trained in handicapped accessibility in all parts of the state within a few months. Building inspections could be requested for other questionable conditions.

In Part 9555.6205 Sewage disposal. "The toilets must flush thoroughly" may be deleted.

The committee also recommended reducing the square footage for a double room to 120 square feet to be compatable with Health Department Board and Lodging Standards.

The committee spent considerable time discussing physically handicapped requirements. The Minnesota Uniform Building Code exempts R-1 and R-2 residences from handicapped regulations. Kurt Strom recommended that there be a term for physically handicapped functionally impaired persons described as residents with "mobility limitations" which would be defined as substantial restriction in range, or ease or speed of independent locomotion. He also suggested that those with "sensory limitations" - defined as in legally blind or deaf shall have "auxillary aids" made available to them. "Auxillary aids" are readers, telecommunication aids, sign language interpreters, cassettes, and large print braille. (From Section 504 regulations). Audible and visual warning components would have to be part of an alarm system for those with sensory limitations.

A recommendation was made that in Part 9555.6225 Subpart F (6) language be developed that provides for an "emergency escape" plan for each individual. This would provide for persons with or without mobility limitations or sensory limitations.

The committee recommended language in the rule stating that adult foster homes having residents with "mobility limitations" or "sensory limitations" must be inspected by a building inspector to comply with Chapter 1340 of the Uniform Building Code. The building inspector could recommend variances but not grant them because they are not required to do inspections. This means that the Commissioners would have to grant the variances. This is an important issue because Chapter 1340 is extensive. It will be necessary to check with Licensing Division to see if this is possible. This may have to be brought to the Attorney General's office. Each committee member who did not have a copy of Chapter 1340 will be mailed one. All members will review these requirements and if they do not think this recommendation is feasible they will contact Gwen Wildermuth who will set up another meeting. The terms "capable and non-capable of self-preservation"related to institutions and are not appropriate for this rule.

The meeting was adjourned at 12 noon.

GW

Respectfully submitted.
Gwen Wildermuth

Adult Foster Home Rule Task Force
Health and Safety Issues Committee
July 2, 1985 - 1:00 p.m. Room B

Agenda -

- Elect Chairperson
- Discussion of Issues from Comments -

  (Committee should make a formal recommendation on each issue, if possible)

  (1)(a) - In which ways will it be permissible for adult foster home providers to distribute medication to residents? Supervise residents taking medication? Suggest language

  (b) - Related to the above, what record keeping will be necessary?

  (c) - How should medication be stored?

  (2) - At a recent visit to an adult foster home that is an S.L.A. (supportive living arrangement), the provider stated that he did need to use restraint with some residents. How should this be addressed? (Assuming this is an exceptional situation.)

  (3)(a) - What kind of health assessment should be required of the provider, caretakers, staff (S.L.A.), family members, etc.?

  (b) - What kind of admission health assessment should be required for residents?

  (4) - Comments about list of pets. Some think it's too restrictive? Are there health issues that should be addressed with any particular pets?

- Other Issues and Recommendations for the Rule.

ADULT FOSTER HOME RULE
HEALTH AND SAFETY ISSUES COMMITTEE
JULY 2, 1985 - 1:00 P.M.
CONFERENCE ROOM B, CENTENNIAL OFFICE BUILDING

SIGN-UP SHEET

	Name	Address	Phone	Representing
1.	Barry Stern	4th Fl - Centennial Bldg. 658 Cedar St., St. Paul	297-1490	DHS - Rulemaking
2.	Nancy A Stommes	1048-87 ave NE Blaine, Mn 55434	786 3938	adult Foster Home
3.	Barbara Kaufman	1821 University Ave St Paul 55104	645-0267	MAVSSA
4.	Grace Nelson	7520 York Ave So. #307 Edina, Mn 55435	821-5967	Mn St. Fed.
5.	Mike Tepple	Minn Dept of Health	623-5448	Minn D. Health
6.	Suzanne Kasper Glass	4th Fl. Centennial	297-1216	DHS - adult day care.
7.				
8.				
9.				
10.				

MINUTES
ADULT FOSTER HOME
HEALTH AND SAFETY ISSUES COMMITTEE MEETING

July 2, 1985 1:00 p.m. Room B, Centennial Bldg.

Persons in attendance:

Suzanne Kasper Glass	- DHS Adult Day Care
Harvey Glommen	- Adult Foster Home Provider
Barbara Kaufman	- MN Assn. of Voluntary Soc. Serv. Agencies
Grace Nelson	- MN Senior Federation
Barry Stern	- DHS Rulemaking
Mike Triple	- MN Dept. of Health

The meeting was opened with Barry Stern distributing an agenda consisting of four major issues for discussion. A chairperson was not elected; however, discussion of issues proceeded in a relatively orderly and organized fashion, and at the end of the meeting the committee decided that election of a chairperson was unnecessary due to the small size of the committee. The committee's discussion and recommendations were as follows:

ISSUE #1: In which ways will it be permissable for adult foster home providers to distribute medication to residents? Supervise residents taking medication? What record keeping will be necessary? How should medication be stored?

The first question raised in connection with this issue was whether or not requirements for distributing and supervising the taking of medication should be addressed in the adult foster home rule or in the adult foster care rule (Rule 203). Another consideration was to include the medication requirements for each resident in his or her individual service plan (ISP), and for the rule to simply reference the ISP with the following language:

> Medication will be administered according to the individual service plan...

If medication requirements are to be included in the rule, the recommendation of the committee is not to require that medications be administered only by a licensed health professional or by a provider (or other caregiver) who has completed the required course.

The committee recommends that the rule enable providers to administer medications to residents upon written permission or according to the written instructions from a health professional (physician, psychiatrist, etc.) where the professionsl believes that the resident may not be competent to self-administer his or her own medications. This would protect providers by relieving their liability for administering medications in many situations where they are currently unauthorized to do so.

Grace Nelson raised the issue of the effect of a medication provision on the elderly in Minnesota. While none of the committee members knew the exact percent of elderly residents in adult foster homes, because adult foster homes in rural areas have more elderly residents and because elderly residents generally take more medications, the committee recognizes that a medication provision in the rule may have the greatest effect on rural adult foster homes.

Possible language for a rule provision regarding written authorization to administer medications is contained in Rule 1 (Standards for Foster Homes for Children); however, if the language is incorporated into our rule, additional language concerning self-administering is needed.

Recommendations of the committee regarding record keeping include the following:

-No record keeping should be required for residents who can self-administer (as determined by the resident's physician in writing).

-More extensive record keeping should be required for prescription drugs than over-the-counter drugs.

Possible ideas for rule provisions include the following:

-The extent of record keeping required for each resident should be specified (in writing) by the resident's physician.

-Records of medication taken by residents in accordance with the physician's instructions/prescription need not be kept. Instead, the provider should only be required to record any deviations from the physician's instructions.

The question of how medications should be stored was discussed very briefly. The committee agreed that the major consideration is that a resident's medication be secured from access by other residents and other persons unauthorized to use it.

ISSUE #2: At a recent visit to an adult foster home that is an S.L.A. (Supportive Living Arrangement), the provider stated that he did need to use restraint with some residents. How should this be addressed? (Assuming this is an exceptional situation).

The first question raised (and never fully answered) was "What is restraint?"

The committee recommended that the rule specify types of restraints that may not be used such as:

-chemical restraints
-straight jackets
-tieing up
-locking up

The only type of restraint that received the consensus of the committee is the use of "holding". However, the issue of whether the rule should include the use of emergency restraints similar to Rule 34 (standards for residential facilities for person with mental retardation) was discussed. If so, the rule must define "emergency" and "time-limited". Should the rule permit providers to exercise restraints [only] when the safety of the resident or other residents or staff are jeopardized? How would such a provision in the rule relate to and be consistent with the Vulnerable Adults Act (Minnesota Statutes, section 626.557)?

ISSUE #3: What kind of health assessment should be required of the provider, caregivers, staff (S.L.A.), family members, etc? What kind of admission health assessment should be required for residents?

The committee agreed that health assessment for providers, caregivers, and family members are needed. Two related questions were raised and briefly discussed:

-How comprehensive should the physical exam be? Should the requirement simply be "free of communicable diseases?" Should a Mantoux test be required, and if so, should it only be required for the initial license?

-Related to part 9555.6125, subp. 2, item D (page 5 of May 20, 1985 rule draft), who pays for the evaluations required by the commissioner or agency?

The committee recommended the following:

-Substitute providers who provide care for more than 45 cumulative days during the year (of licensure) should be required to get physical exams.

-A physical exam for each resident should be required no more than 30 days prior to and 3 days after placement. This requirement should be added to the language in part 9555.6245, subp. 3 (page 20 of May 20 rule draft).

The committee also questioned the caregiver requirement of being physically able to care for residents in part 9555.6155, subp. 2, item B (page 13 of May 20 rule draft). Harvey Glommen stated that he cound probably operate his adult foster home from a wheelchair.

ISSUE #4: Is the list of pets in part 9555.6225, subp. 7 (page 19 of May 20 rule darft) too restrictive? Are there health issues that should be addressed with any particular pets?

Mike Tripple indicated that the Health Department does not restrict the number or kinds of pets, but instead leaves the decision to the provider and veterinarian. The committee agreed that the issue of pets should be decided by each adult foster home. Therefore, the committee recommended that the list of pets in subp. 7 (dogs, cats, fish, etc.) be removed from the rule.

ADJOURNMENT

The meeting was adjourned at 3:00 p.m. after arrangements were made to schedule the next meeting at a time when all members would be able to attend.

NEXT MEETING

The next meeting is scheduled for Thursday, July 25, 1985 at 1:00 p.m. in Conference Room B, Centennial Bldg.

The July 25 meeting is expected to be the final meeting of the Health and Safety Issues Committee. The major focus of the next meeting will be to develop specific recommendations and rule language concerning the four issues discussed at the July 2 meeting and discussed in these minutes. If committee members wish to add additional items to the agenda or have any questions, please contact me at 297-1490 or Gwen Wildermuth at 296-0311.

Thank you.

Barry Stern

Barry Stern
DHS Rulemaking Unit

Dated: July 11, 1985

Adult Foster Home Rule Task Force

Caregiver Qualifications Committee
Minutes

July 8, 1985 - 10:00 a.m.

Members Present: Harvey Glommen, Barbara Kellett, Bea Jones, Barry Stern, Grace Nelson, and Gwen Wildermuth

The meeting was opened with Bea Jones, chairperson, requesting approval of the minutes from the last meeting. Barb Kellett stated in reading the minutes she had had some further thoughts on the disqualification factors.

With regard to 9555.6125 Subp. 6 chemical dependency, the committee recommended the following wording:

A. Has a current problem related to chemical dependency which may negatively affect their ability to provide adult foster care. If an individual has a documented history of chemical dependency, that individual shall provide sufficient evidence to satisfy the Commissioner that he or she has been obstinent for at least a year. Chemical dependency means ..... (same as draft).

In 9555.6125 Subp. 6 E., the committee recommends the following wording, "Has possession of or uses illegal drugs inside or outside the adult foster home".

Bea Jones submitted, for the committees review a letter from the Anoka County attorney regarding the family day care rule, listing all the crimes in Minnesota Statutes 609.18-609.21 or 609.221-609.375. The County attorney noted that "it does not include such crimes as theft, receiving stolen property, arson, burglary, forgery, weapons, violations, terroistic threats, indecent exposure and possession or sale of controlled substances". Since these same statutes are cited in the foster care rule, the committee requested that Barry Stern research the possibility of including the entire criminal code as a disqualification factor in the adult foster care rule and also add federal offenses. Barry stated that there may have been some legal reason why those other crimes could not be included but he will develop some draft language which will be mailed to committee members for review and comment.

The committee also recommends that the following disqualification be added:

"Has had parental rights terminated under Minnesota Statutes, section 260.221 paragraph B". This statute refers to involuntary termination.

To part 9555.6135 Subp. 11, the committee recommended that this section be reviewed because if a license were revoked and not renewed due to a physical standard such as "safe water", which might be a difficult problem, it would not be appropriate to deny

them a license if they could once again meet all the standards. This section will be reviewed by staff with the licensing division. A "typo" was noted in this same paragraph. 9545.0335, subpart 6, should be 9555.6125, subpart 6. (Disqualification factors).

Since there was a good deal of comment on the definitions of "provider", "caregiver", "substitute", "household number" and "roomers and boarders". These definitions were reviewed. It was the sense of the committee that these definitions were essentially all rightwith the addition of "who are not functionally impaired" to the definition of roomers and boarders and eliminating "and primary caregiver" to the definition of provider in 9555.6105. Where definitions overlap, it is necessary for inclusion of certain persons in applicable standards.

The committee reviewed training issues and for a regular adult foster home, they made the following recommendations for training requirements.

Years of Service
0 - 5 years - 12 hrs./year
6 - 10 years - 6 hrs./year
11 + years - 4 hrs./year

The first year 3 hours of orientation may be included as part of the 12 hours.

Committee members recommend strongly that in the revised adult foster care rule (203) there be a stipulation that the adult foster home have a minimum of one or two hours training on needs of each particular resident placed prior to resident being in the home.

The consensus of the committee was that there be some specific guidelines on money management for residents. Grace Nelson suggested looking in the nursing home rules and seeing if some of the language could be borrowed from there. The committee thought adult foster home providers <u>should not</u> be representative payees.

On the question of evaluation psychological, physical or chemical, the committee felt that applicants and providers had the right to choose their own professional as per the rules. Some areas use their mental health centers. Situations when a household member might have a personal problem, would have to be assessed on an individual basis by the worker as to whether this was influencing care of the resident. In this instance a variance could be requested.

Finally in 9555.6145 Subp. 1 A references should be "those not related to the provider".

Chairperson Jones noted that the minutes had not yet been approved for the last meeting. The minutes were approved as written.

The committee will not meet again, but a draft of "criminal code disqualification factors" language will be mailed to members for comment.

The meeting was adjourned at 2:10 p.m.

Respectfully submitted,

Gwen Wildermuth GW

Adult Foster Home Rule Task Force
Types of Adult Foster Homes Committee
Minutes - July 9, 1985 - 9:30 a.m.

Members Present: Jim Loving, Sue Abderholden, Harvey Glommen, Gerald Glomb, Dennis Holman, Bea Jones, Gwen Wildermuth, Barbara Kellett

Barbara Kellett was elected chairperson. There was much discussion of the S.L.A. (Supportive Living Residences) type foster home and how it could be included in the rule. It's important to remember that the adult foster home rule is a licensing rule for a residential facility and S.L.A. is a program which is contracted for on an individual client basis and paid for through the Medical Assistance Waiver. Differences between an adult foster home with S.L.A. services and a foster home without S.L.A. services were identified. One of the major differences is that an S.L.A. has staff that rotate shifts. These staff persons need more training and orientation than caregivers in homes without S.L.A. services. These staff persons work within a contract agreement as provided for in Rule 41. The county case manager is responsible for monitoring this contract. A second major difference is that an S.L.A. adult foster home caregiver may not sleep in the residence, yet would provide supervision during critical times. The caregiver would be close by for emergencies. Another factor is that in S.L.A.'s, restraints may need to be used.

The committee then looked at the definition of adult foster homes. Most committee members felt that the word "family" should be removed from the definition since there were probably not that many actual "family foster homes" with a married couple and a child(ren). The idea a "family" has changed a great deal in the recent past. There is a trend toward "hybred" family type configurations to meet complex individual needs. The last sentence of the definition was eliminated.

The committee felt that the generic term adult foster care should be changed to "adult living homes".

Harvey Glommen proposed the idea of a "professional foster home" that would provide similar services to Rule 34, 35, and 36 facilities. The committee felt that the term "professional" would complicate the idea of foster care. The committee could not find a rationale to identify a "special"or "specialized" adult foster home. They felt the most important idea was to have each county adopt an appropriate difficulty of care scale to properly reimburse homes that provided high levels of skilled care. Further, that this would be one of the best ways to recruit providers with special skills.

As far as S.L.A. staff are concerned, the committee felt that their qualifications, hiring practices, personnel policies etc. would be addressed by Rule 41 and the individual contract. One of the problems is with the additional staff training requirements. One member thought Rule 41 stated that the training requirements were to be whichever rule was "least restrictive". The committee went along with the recommendation of the caregiver qualification committee of:

0 - 5 years experience* - 12 hours per year
6 - 10 years - 6 years per year
11 + years - 4 hours per year
* during the first year 3 hours of orientation can be counted in the twelve hours.

One S.L.A. provider member wanted to "prorate the training time" for part time staff. The rest of the committee did not agree.

Discussion of whether there should be a "restricted" home for specifically named individuals with a training requirement of 4 hours did not result in concensus.

Most committee members recommended that not more than 2 persons should share a room and only share with the residents' consent. Some thought no variances should be allowed because adults need privacy and "dorm" rooms were "too institutional". Another member thought there should be as much flexability in the rule as possible.

The committee thought "items" of furniture should be allowed and the qualifier "whenever possible" removed in 9555.6208 Subp. 6. Item 4.

The committee reviewed 9555.6235 Subp. 1 on the adult foster home program and thought the paragraph should be left in, even if it was not measureable.

The committee declined to meet again before the second full task force meeting.

The meeting was adjourned at 12:30 p.m.

Respectfully submitted,

Gwen Wildermuth GW

Adult Foster Home Rule Task Force
Defining Functionally Impaired Committee
Minutes - July 10, 1985 - 1:00 p.m.

Members Present: Rich Jochem, Bob Robertson, Barb Kaufman, Jim Loving, Barry Stern, Deb Holtz (for Sue Abderholden), Gwen Wildermuth

Gwen Wildermuth opened the meeting by raising the question: Should the rule incorporate the definition of "functionally impaired" from the licensing statute or further define "functionally impaired" in more specific terms? The need to more clearly define the clientele versus the problems with drafting a specific, detailed definition was discussed.

Consensus of the committee was that functionally impaired did need to be further defined from the definition that is in the draft which was taken directly from statute. The committee recommended, at Barb Kaufmann's suggestion, that functionally impaired be defined as follows:

"Functionally impaired", means having a condition that includes having substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, or having a disorder of thought or mood that significantly impairs judgement, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life and requiring support to maintain independence in the community and in need of one or more services listed in part 9555.6105, Subpart 3 and not in need of additional services unless indicated by the individual service plan and arranged for by the agency.

Some committee members felt strongly that every adult in foster care should have a social worker with at least maintenance goals and semi-annual contacts with the resident and provider.

The issue of the use of restraints was discussed in relation to mentally retarded residents who are in adult foster homes with Supportive Living Arrangements. The committee was hesitent to put anything in the rule regarding this, since generally it was felt that persons requiring restraints were not appropriate for adult foster care. Barry Stern noted that the issue of restraints was discussed at the Health and Safety Issues Committee meeting on July 2, 1985. At that meeting, the health and safety committee recommended that the rule specify types of restraints that may not be used, such as chemical restraints, straight jackets, tieing up, and locking up. The only type of restraint that received the consensus of the health and safety committee was the use of "holding". See July 2 Health and Safety Issues Committee Meeting Minutes, pp. 2-3. Jim Loving and Deb Holtz volunteered to research the issue of the use of restraints and suggest language regarding this issue for the rule.

The meeting was adjourned at 2:20 p.m.

Respectfully submitted,

Gwen Wildermuth GW

M I N U T E S

Meeting on licensing issues in
adult foster home, adult day care,
and supportive living residences rules

July 23, 1985 9:00 a.m.
Rules Division Conference Room - 6th
Floor, Space Center

Persons in attendance:
Bill Fink
John Sauer
Gwen Wildermuth
Suzanne Kasper Glass
Jane Nelson
Alice Weck
Barry Stern

Jane Nelson opened the meeting and phrased the majority of questions to Bill Fink.

1. Three rules v. one rule/final write-off.

Bill stated that "combining rules is a false economy" and that the workload for the licensing division would not be less if one rule with standards for all three types of facilities were promulgated. He does not disagree with Margaret Sandberg's idea of having one all-inclusive rule. However, he believes the idea may be easier to operationalize in a few years.

Assuming that the three rules continue to be promulgated separately, Jane pointed out that inconsistencies in the three rules are inevitable because the rules are evolving from three separate committees. Bill stated that he may be comfortable with some inconsistencies, but he stressed that because the average appeal costs the department about $3,200, we must strive for consistency in these and other licensing rules in as many provisions as possible - especially those dealing with sanctions and criteria for levying sanctions, otherwise, litigation problems could arise. At present, provisions in the three rules dealing with the licensing process, negative licensing actions and data practices are fairly consistent. All participants agreed on the importance of consistency in these areas.

The issue of who has final write-off authority was not discussed at length. The answer to the question "who has final write-off, Bill or Margaret" appears to be "Frank".

2. Frequency of inspections.

The licensing statute permits licensing (and, therefore, inspections) for up to two years. Bill was asked how often inspections should be required. Should they be required every year because residents/clients, as vulnerable adults, are in need of more protection assurance? Can the rules require counties to inspect every year but require the department to inspect only once every two years?

Bill stated that, while the frequency of inspections should depend upon the vulnerability of the persons served, the licensing division does not (presently) have adequate resources to inspect every year, nor do counties. If the three rules require annual inspections, litigation problems may arise if, for example, a resident is injured in a facility not regularly inspected as required by law (rule).

Therefore, Bill would prefer that the rules not include any provisions for frequency of inspections, and instead allow the statute (inspections at least every two years) to control. While Bill believes that adult foster homes, adult day cares, and supportive living residences should probably be inspected every year, the reality of the situation is that there are not enough licensors to do so. He stated that "licensing cannot be a substitute for case management". In response to this, Gwen noted that many residents/clients in these facilities do not have case managers; therefore, there may be no one else (but the licensor) looking out for their interests.

3. Licensing Study.

If a corporation applies for a license, who do we study?

Bill clarified that the licensing division evaluates data on anybody who provides services under the auspices of a corporation applying for a license (employees and board members). The three rules should, therefore, not be inconsistent with this practice.

4. Disqualification factors.

Bill believes that criteria for disqualification are policy issues and should not be dictated by the licensing division. The criteria should be developed by the department experts in MR, MI, etc. However, he will review any rule language developed for the purpose of determining whether or not it is enforceable. In order to develope clear, consistent, and enforceable language, he recommends that the criminal offenders rehabilitation act be carefully reviewed and that we can clearly justify how various crimes relate to or prevent a person from operating a facility or put residents at risk.

Re: determining whether a situation or condition impairs an applicant's or proviver's ability to care for residents/clients: Meeting between Eleanor Weber and Erica Jacobson on this issue (regarding Rule 3 disqualification factors) on Monday, July 29 at Erica's office (515 Transportation).

5. Variances.

Bill does not want to provide for "variances ad infinitum" (automatic variances) in the rules - he wants these decisions left up to the fire marshall and building inspector.

Jane raised the following issue: Can we delegate all of our safety responsibility to the fire marshall? Isn't the Commissioner ultimately responsible for safety? Bill indicated that the number of variances granted each year by the licensing division is huge. This is a big problem because the licensing division is, in effect, re-writing many department rules. Jane suggested that variances granted by the licensing division be reviewed periodically (at least every five years) to determine whether enough consistency exitst to justify amending the rules accordingly.

Bill encouraged restricting the licensing division's power to grant variances in the three rules. Gwen suggested restricting the number of rule parts to which variances may be granted. This suggestion was favored by all participants at the meeting. Jane suggested that the issue of restricting the department's ability to grant variances also be presented to the attorney general's office for legal clarification.

6. Handicapped accessibility.

Bill suggested we review an old draft of Rule 185 regarding language on "least restrictive environment" for "when and if" language (rule criteria depends upon the types of persons placed in the facility).

Can licensors inspect for compliance with UBC 1340 if all or parts of UBC 1340 are incorporated into the rules? Bill responded by stating that clearly observable criteria (for example - grab bars in shower, wheelchair ramps, large enough bathroom to turn a wheelchair) are acceptable criteria to expect a licensor to inspect and enforce. Should the rules, therefore, contain only handicapped assessibility standards that are clearly observable?

7. Food for thought

Bill's final word on the development of the three rules is that he would prefer shorter, cleaner, more moderate rules that are enforceable rather than longer, more elaborate rules that may be difficult to enforce.

Dated: July 25, 1985

By: Barry Stern

ADULT FOSTER HOME RULE TASK FORCE
HEALTH AND SAFETY ISSUES COMMITTEE
JULY 25, 1985 - 1:00 P.M.
CONFERENCE ROOM B - CENTENNIAL BUILDING

AGENDA

The committee must make a recommendation for specific rule language on each of the following issues:

1) Criteria for providers administering medications to residents: Under what circumstances should this be permitted?

   What record keeping will be necessary?

   How should medications be stored?

2) Health assessment/physical exam requirements for providers, caregivers, household members, and residents: How comprehensive should the assessments/physical exams be? When should they be required?

3) What constitutes a "serious injury, or illness, ~~or accident~~" for purposes of reporting requirements in part 9555.6175, subp. 2?

4) Any other health and safety issues on which the committee wishes to make recommendations for specific rule language.

M I N U T E S
ADULT FOSTER HOME RULE
HEALTH AND SAFETY ISSUES COMMITTEE MEETING

July 25, 1985 1:00 p.m. Room B, Centennial Building

Persons in attendance:

Grace Nelson -MN Senior Federation
Barbara Kaufman -Mn Assn. of Voluntary Soc. Serv. Agencies
Mike Tripple -MN Dept. of Health
Gwen Wildermuth -DHS Social Services Div.
Barry Stern -DHS Rulemaking Unit
Rich Jochem - MHHC

The meeting was opened with Gwen Wildermuth briefly reviewing the agenda, which consisted of three major issues. The committee's discussion and recommendations were as follows:

ISSUE #1: Criteria for providers administering medications to residents: Under what circumstances should this be permitted? What record keeping will be necessary? How should medications be stored?

The committee reiterated its recommendations of the July 2, 1985 meeting by recommending that the rule enable providers to administer medications to residents upon written permission or according to the written insructions from a health professional (physician, psychiatrist, etc.) where the professional believes that the resident may not be competent to self-administer his or her own medications. In addition, the committee recommended that prescription labels be sufficient to constitute written instructions from a physician. Mike Tripple distributed copies of proposed parts 4625.5105 to 4625.5240 (proposed Department of Health rules governing boarding and lodging facilities with medication distribution programs). If the Dept. of Health rules are used as a model, possible rule language could be as follows:

A provider [or caregiver] shall not distribute or administer medications to residents unless the provider [or caregiver]:

A. is licensed as a nurse;
B. has a TMA certificate;
C. has completed and passed the exam for a 16-hour course in medication distribution approved by the Minnesota Department of Health...;or
D. has written permission from or administers medications according to written instructions from the resident's physician. A prescription label is sufficient to constitute written instructions from a physician.

The committee also recommended that the definition of "medicine" in part 9555.6105. subp. 21 be amended to include only prescription drugs (similar to part 4625.5105, subp. 3).

Regarding record keeping requirements, the Committee discussed the importance of minimum standards in order to provide a record of whether medications have improved a resident's physical or behavioral condition. Record keeping is also viewed as a way for providers to protect themselves from liability in the event that a client experiences medication-related problems.

The committee recommended that record keeping be required when medications are started, changed, or discontinued; that it is not necessary to keep a record of every time a medication is given; that it is most important to record when a medication is not given and other deviations from the physician's instructions. The committee further recommended that language from part 4625.5115, subp. 1 be adopted, with the exception of the fourth and fifth sentences. This proposed language is as follows:

> All medications used by each resident shall be recorded on the resident's medication record. This record shall include all the information on the prescription. Special notations must be made whenever medications are started, changed, or discontinued, or when medications are not taken by the resident according to the physician's instructions. Adverse reaction to a medication and the report to the physician, as prescribed in part 9555.____ , subp.____, must also be recorded. [part 9555.____ , subp.____ will require that the provider immediately report to the prescribing physician any adverse reaction to medications].

Regarding storage requirements, the committee recommended that all medications be stored in a clean area, and that each resident's medications be secured from access by other residents, staff, and household members who are unauthorized to use it. The committee further recommended that all Schedule II controlled substances listed in Minnesota Statutes, section 152.02, subdivision 3 (attached as Appendix A) be stored in a locked storage area permitting access only by the provider or other caregiver authorized to administer medications.

ISSUE #2: Health assessment/physical exam requirements for providers, caregivers, household members, and residents: How comprehensive should the assessment/physical exams be? When should they be required?

The committee recommended that the rule not require a Mantoux test. However, because the incidence of TB in nursing homes is significantly greater than (29 times?) that of the general population, the committee raised the issue of requiring Mantoux tests for residents transfered to adult foster homes from nursing homes. This issue was left unresolved.

The committee reiterated its recommendations of the July 2, 1985 meeting by recommending that:

- -substitute providers who provide care for more than 45 cumulative days during the year (of licensure) be required to get physical exams.

- -a physical exam for each resident be required no more than 30 days prior to and three days after placement (amend part 9555.6245, subp. 3 of rule draft).

The committee further recommended that physical exams for providers, caregivers, and household members be required prior to and within 12 months of initial licensure, providing care, or living in the home. The committee also recommended that the form in current use, entitled the "Physician's Report On Foster Home Applicants" be used for physical exams of providers, caregivers, and household members, with the following changes:

-omit "Your impression of patient's emotional security and maturity"
-omit "Has applicant ever been treated for emotional problems or mental illness?"
-omit "Has applicant ever been treated for chemical dependency?"
-add "Does applicant have any reportable communicable diseases? If so, explain."
-move the location of "signature of examining physician" to the bottom of the form so that the signature applies to the entire examination and not just the Mantoux and x-ray.
-omit "The only required test is the Mantoux. If that is positive, a chest x-ray is required" and replace with "A Mantoux and chest x-ray are not required. These and..." [other tests may be administered at the discretion of the physician].

Mike Tripple suggested that we check with the state hospitals to find out whether state hospital employees are required to get physical exams prior to employment. If so, there may be some "boiler-plate" language which we may want to incorporate into the rule

ISSUE #3: What constitutes a "serious injury" for purposes or reporting requirements in part 9555.6175, subp. 2?

The committee strongly recommended that the term "serious injury" be changed to "serious injury or illness", and that the definition of "serious injury or illness" in part 9555.6175, subp. 2, item C not be changed.

OTHER ISSUES

Mike Tripple distributed copies of the Department of Health's "pet rule", part 4638.0200. The committee strongly reiterated its recommendations of the July 2, 1985 meeting by recommending that the list of pets in part 9555.6225, subp. 7 (dogs, cats, fish, etc.) be removed from the rule.

Mike also distributed copies of newly adopted Department of Health rules relating to the reporting, investigation and control of cummunicable diseases, parts 4605.7000 to 4605.7800 and parts 4735.0100 to 4735.0300.

ADJOURMENT

The meeting was adjourned at 3:00 p.m. No future meetings of the Health and Safety Issues Committee are expected. The committee's work is greatly appreciated. Its recommendations will be indispensable to the development and completion of the adult foster home rule.

Thank you.

Barry Stern,
DHS Rulemaking Unit

Dated: August 2, 1985

Appendix A

152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER.

Subd. 3. The following items are listed in Schedule II:

(1) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, including the following: raw opium, opium extracts, opium fluidextracts, powdered opium, granulated opium, tincture of opium, apomorphine, codeine, ethylmorphine, hydrocodone, hydromorphone, metopon, morphine, oxycodone, oxymorphone, thebaine.

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (a), except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Dihydromorphinone; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane; Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine; Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Methamphetamine, its salts, isomers, and salts of its isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Methaqualone

(b) Amobarbital

(c) Secobarbital

(d) Pentobarbital

(e) Phencyclidine

(f) Phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine

(ii) 1-piperidinocyclohexanecarbonitrile.

MINUTES
Adult Foster Home Rule
Task Force Meeting

Thursday, August 22, 1985 9:00 a.m.
Room D, 4th Floor, Centennial Building

Persons in attendance:

Tom Joachim	State Building Inspector's office
Kurt Strom	Council for the Handicapped
Gwenn Lovetang	Hennepin County Social Services
Jim Loving	DHS - Mental Retardation
Deb Holtz (for Sue Abderholden)	ARC/MN
Ralph Willenbring	MN Foster Parents Association
Barbara Kellett	Ramsey County Human Services
Mike Tripple	MN Department of Health
Bob Robertson	DHS - Chemical Dependency
Bea Jones	Anoka County Health and Social Services
Harold Berntsen (For Grace Nelson)	MN Senior Federation
Gerald Glomb	Adapted Living Programs
Rich Jochem	MHAC
Robert Imholte	State Fire Marshall's office
Cheryl Nyhus	DHS - Licensing
Barry Stern	DHS - Rulemaking
Gwen Wildermuth	DHS - Social Services

The meeting was opened by Gwen Wildermuth. Gwen thanked the task force members for their help in improving the rule draft and encouraged task force members to submit additional suggestions and ideas for changes to the August 13, 1985 draft.

Approval of Minutes of Last Task Force Meeting

A motion was made and seconded to approve the minutes to the June 5, 1985 task force meeting. The task force unanimously approved the minutes.

Approval of Minutes of Committee Meetings

Motions by committee members were made and seconded to approve the minutes to the following committee meetings:

June 28, 1985 Fire/Building Inspection Committee Meeting
July 2, 1985 Health and Safety Issues Committee Meeting
July 8, 1985 Caregiver Qualifications Committee Meeting
July 25, 1985 Health and Safety Issues Committee Meeting

The task force unanimously approved the minutes to the four committee meetings, with one correction: Rich Jochem was present (but not listed as present on the minutes) at the July 25 meeting. Rich's name was added to the minutes, and the minutes to the July 25 meeting were approved with that addition.

Review of New Sections of the Rule

The task force reviewed and discussed four new rule sections added to the

rule as a result of the last task force and above-mentioned committee meetings.

(1) Part 9555.6275 - Special Licensing Standards

Kurt Strom noted a typographical error in subpart 1 ("grab" should be "grab bar"). Kurt also indicated that the definition of "ramp" is not (and should not) be the same as that in the State Building Code, but is in need of clarification. On Kurt's suggestion, the task force recommended that the rule require slopes of ramps that allow access to the building by residents in wheelchairs under their own power, and in no case should the slope be steeper than one foot vertical to 12 feet horizontal.

The task force agreed with the grab bar requirements in the rule; however, a concern expressed was that grab bars represent an unrecoverable expense to providers because, if the provider later sells the home, the buyer would probably not want to pay extra for them (or may insist that they be removed).

The task force raised the following issue: Should the special licensing standards only apply to adult foster homes with long-term mobility impaired residents? For example, if a resident will only require a wheelchair for 30 days, should the provider be required to purchase and install a ramp (and satisfy other related requirements)? This issue was not resolved by the task force. If the idea is incorporated into the rule, a consensus on what is long-term or short-term (with justification) will be required.

The task force recommended that the rule incorporate (or include) the diagrams from the State Building Code related to grab bars and other requirements of part 9555.6275 to ensure a better understanding by providers and licensors. The task force also recommended that: bathrooms be large enough to accommodate (not "accommodate and rotate") the resident's wheelchair, and doorways to the living room, dining room, kitchen and and resident's bedroom be wide enough to accommodate the resident's wheelchair; bathtub and shower stalls with seats have water valves that are single lever control and accessible from the seat; toilet room accessories (mirrors, hand towels, etc.) be accessible from the resident's wheelchair; and that no variances be permitted to the special licensing standards if the task force's recommendations are adopted (along with other changes) to make the standards more flexible.

(2) Part 9555.6265 - Safequards for Cash Resources

The task force recommended that "resident" be changed to "resident and the resident's guardian or conservator" and that item B be reworded for clarity, possibly by changing or defining the term "demand account".

(3) Part 9555.6255 - Residents' Rights

Grace Nelson suggested that the residents' rights section state where and to whom a resident or his or her guardian may complain. The task force agreed and recommended that the rule require providers to inform residents and their guardians, upon placement, of the name, address and phone number of the person or agency to which complaints may be submitted. The task force also recommended that the rule specify the types of things residents have a right to complain about (possibly incorporating some language from the Vulnerable

Adults Act), and require the local agency to provide a copy of residents' rights to each resident and his or her guardian. The task force further recommended that a copy of residents' rights not be required to be posted in the residence, and that residents have the right to receive any visitors (including family, friends, legal counsel, etc.) they choose, unless the right to receive visitors is restricted by a resident's individual service plan or interferes with the health, rights, or safety of other residents or household members.

Bea Jones suggested, and the task force agreed, that a committee on the residents' rights be formed to recommend specific rule language. The following task force members expressed an interest in being on the committee: Rich Jochem, Gerald Glomb, Deb Holtz, Grace Nelson, Bob Robertson, Barb Kellett, Gwen Wildermuth, and Barry Stern.

The task force also decided to form a committee on restraints to recommend specific rule language. The following task force members expressed an interest in being on the committee: Ralph Willenbring, Jim Loving, Deb Holtz (or Sue Abderholden), Gwen Wildermuth, and Barry Stern.

Jim Loving expressed concern about the definition of "adult foster home", particularly with the "24 hour" standard, which seems to suggest that adult foster home care is being provided "around the clock". Gwen clarified that the definition of "adult foster home" has become a controversial (internal) issue within the department, and it was agreed that the issue not be discussed by the task force at this meeting. Gwen invited Jim to participate in department meetings on the issue (which she anticipated will be held in the near future).

(4) Part 9555.6135, subpart 2, item C - Information provided to the local agency by applicants who represent partnerships, corporations, and governmental units.

The task force recommended that subitem (1) require names and addresses of only owners and board members of the partnership or corporation instead of all employees; that the information in item C need not be "provided" to the local agency but instead be required to be "made available" to the local agency; and that a subitem possibly be added which would require the partnership, corporation, and governmental unit to provide evidence of or a plan for financial stability during the term of licensure (the next 12 months).

Review of Adult Foster Home Program Section - Part 9555.6235

The task force briefly discussed this section and had no (immediate) recommendations for changes.

Review of Qualification/Disqualification Factors for Providers, Caregivers, and Household Members - Part 9555.6135, Subp. 3 and Subp. 4

The task force discussed the qualification/disqualification sections and raised many questions and issues. Are there any time limits connected with the convictions of crimes or terminations of parental rights under Minnesota Statutes, section 260.221, paragraph B? Would an applicant be disqualified if he or she had parental rights terminated 20 years ago?

Barry Stern indicated he will highlight this issue for the Attorney General's office and try to get legal clarification of the limits.

The task force did recommend that the word "placed" (in foster care or residential treatment) be deleted from the rule, and that the Caregiver Qualifications Committee re-convene in the near future to discuss the related sections in depth.

Scheduling of Committee Meetings

Gwen Wildermuth scheduled the dates for the three committee meetings recommended by the task force:

Residents' Rights Committee (Rich Jochem, Gerald Glomb, Deb Holtz, Grace Nelson, Bob Robertson, Barbara Kellett, Gwen Wildermuth, and Barry Stern) - 9:00 a.m., Wednesday, August 28, 1985.

Restraints Committee (Ralph Willenbring, Jim Loving, Deb Holtz or Sue Abderholden, Gwen Wildermuth and Barry Stern). - 1:00 p.m., Tuesday, September 3, 1985.

Caregiver Qualifications Committee (Bea Jones, Barbara Kellett, Jim Loving, Rich Jochem, Gwen Wildermuth, Barry Stern and Gerald Glomb). - 1:00 p.m., Wednesday, September 4, 1985.

Rich Jochem indicated he wouldn't be able to attend the September 4 meeting, but would either send a representative from MHAC or contact Gwen individually to discuss his concerns.

Gwen stated she would arrange conference rooms in the Centennial Building for the above committees and inform committee members as soon as possible.

Adjournment

Prior to adjournment, Barry Stern summarized "what happens next" in the rule promulgation process. Major tasks to be completed prior to the public hearing include drafting the statement of need and reasonableness (SNR), having the rule and SNR reviewed by the Attorney General's and Deputy Commissioner's offices, and mailing drafts of revised rule provisions to task force members for review.

Gwen adjourned the meeting at 12:10 p.m.

Dated: 9-27-85

By: Barry Stern

Adult Foster Home Rule
Task Force
August 22, 1985
9:00 a.m. - Noon

Conf Rm D

Agenda

9:00 - 9:10	Approval of Minutes of Task Force and Committee Meetings
9:10 - 9:50	Review of New Sections

- 9555.6275 Special Licensing Standards p.25
- 9555.6265 Safeguards for Cash Resources p.24
- 9555.6255 Residents' Rights p.24
- 9555.6135 Subp. 2C part of Licensing Study p.5.

9:50 - 10:00	Review of Adult Foster Home Program Section 9555.6235 p.22
10:00 - 10:20	Review of Qualification/Disqualification Factors for Providers, Caregivers and Household Members. 9555.6135 Subp. 3 and Subp. 4 pp.6-7.
10:20 - 10:30	Break
10:30 - Noon	Rule Issues and Comments from Task Force Members
Noon -	Adjourn

Barry Jan
Minnaker

Task Force Meeting 8-22-85

Name	Agency
Tom Joachim	State Bldg Code
Kurt E. Storm	Council Handicapped
Jeremy Loretang	Hennepin County
Jim Young	DHS - MR DIVISION
Deb Holte for Sue Abderholden	ARC/Mn.
Ralph Willenbring	Minn Foster parent Assn.
Barbara Kellett	Ramsey Co. Comm. Hum. Serv
Mike Tuppl	Minn Dept of Health
Bob Robertson	DHS - CD office
Bea Jones	anoka co
Harold Berntsen for Grace Nelson	Metro Sr. Federation
Barry Stern	DHS - Rulemaking
Jerald Storm-	Adapted Living Programs.
Rich Jochum	MHAC
Robert A. Imholte	State Fire Marshal Division
Cathryn Byhus	Dept. of Human Services

MINUTES

Adult Foster Home Rule
Residents' Rights Committee Meeting
August 28, 1985
9 a.m. Cafeteria Conference Room, Centennial Building

Persons in Attendance:

Sue Abderholden - ARC/MN
Gerald Glomb - Provider
Barbara Kellett - Ramsey County Human Services
Grace Nelson - MN Senior Federation
Bob Robertson - DHS/CD
Barry Stern - DHS/Rulemaking
Gwen Wildermuth - DHS/Social Services

This meeting was held to revise and expand the residents' rights provisions in part 9555.6255 of the August 13, 1985 draft of the adult foster home rule.

The meeting was opened by Gwen Wildermuth, who reiterated the purpose of the meeting and distributed a copy of the Minnesota Nursing Home Residents Bill of Rights (extracted from Minnesota Statutes, sections 144.651 to 144.652) to each committee member. Committee members were asked to determine the relevance of the Bill of Rights to adult foster homes, recommend specific provisions to incorporate into part 9555.6255, and recommend any other provisions for incorporation. Barry Stern explained that, from a rulemaking standpoint, residents' rights provisions should be "measureable" to the greatest extent possible to avoid vagueness and increase consistency in application and enforceability. Provisions that are overly broad or vague or confer too much discretion on the agency or department may be revised or stricken by the attorney general's office.

The committee agreed that the rule should require providers to supply each resident (and guardian) with information on residents' rights. Bob Robertson indicated that this is currently done with persons in chemical dependency programs.

The committee agreed that the rule should also require residents and guardians to be informed of the name, address, and telephone number of the agency or person responsible for handling adult foster care complaints. Grace Nelson suggested that the Older Americans Act may apply to adult foster homes and, therefore, that the Ombudsman Program (Nursing Home Residents' Advocates in the Twin Cities area) may be a possible agency to receive and investigate adult foster home complaints. The applicability of the Older Americans Act and possibility of utilizing the Ombudsman Program, MHAC, ARC, or other advocacy agencies will be researched by Gwen with the assistance of the other committee members.

Gerald Glomb suggested the possibility of a rule provision requiring providers to agree to respect residents' rights and distribute residents' rights information to residents and guardians. This suggestion was neither recommended nor rejected by the committee, but was instead recognized as an option if many of the specific rights are stricken by the attorney general's office or, for some other reason, are not included in the proposed rule.

The committee reviewed the Nursing Home Residents' Bill of Rights section by section, and recommended adding many of these rights to part 9555.6255, with extensive language modifications.

The committee recommended that subpart 1 (telephone) be retained with the addition of the word "reasonable" before "access" to clarify that a resident does not have unlimited access to the residence's telephone.

The committee recommended that subpart 2 (mail) be retained, and that subpart 3 (personal privacy) be retained with some additional language added from the Nursing Home Residents' Bill of Rights (pertaining to treatment privacy).

The committee recommended that the rights enumerated in the Nursing Home Bill of Rights pertaining to information about rights, courteous treatment, appropriate health care, identity of person responsible for coordination of care, participation in planning care, right to refuse care, treatment privacy, responsive service, personal privacy, grievances (complaints), personal property, services for the facility (residence), financial affairs, right to associate, and married residents be incorporated into part 9555.6255, with many modifications, additions, and deletions. The committee's review and recommendations have resulted in the following revision of part 9555.6255:

9555.6255 RESIDENTS' RIGHTS

Subpart 1. Information about rights. The provider shall give each resident and guardian, at admission, an explanation and copy of the residents' rights in subparts 2 through 15, a written summary of the Vulnerable Adults Protection Act, Minnesota Statutes, section 626.557, and the name, address, and telephone number of the agency to which residents and guardians may submit an oral or written complaint.

Subp. 2. Right to complain. Residents have the right to voice complaints and recommend changes in adult foster home policies without the fear of reprisal, including the threat of discharge.

Subp. 3. Right to use telephone. Residents must have reasonable access to a noncoin-operated telephone.

Subp. 4. Right to receive and send mail. Residents must be allowed to receive and send uncensored, unopened mail.

Subp. 5. Right to personal privacy. The licensee shall ensure that a resident's rights to privacy, individuality, and cultural identity is respected. Privacy must be respected by providers, caregivers and household members by knocking on the door of a resident's room and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.

Subp. 6. Right to participate in planning care. Residents have the right to participate in the planning of their care.

Subp. 7. Right to courteous treatment. Residents have the right to be treated with courtesy and respect for their individuality by providers, caregivers, and household members, and the right to prompt and reasonable responses to their questions and requests.

Subp. 8. Right to have access to health care. Residents have the right to have access to medical and dental care based on their individual needs.

Subp. 9. Identity of agency representative. The provider shall give each resident and guardian, at admission, the name, business address, and telephone number of the agency responsible for the coordination of the resident's care.

Subp. 10. Right to refuse care. Legally competent residents have the right to refuse care. Residents who refuse care must be informed by the provider of the likely medical or psychological results of the refusal, with documentation in the resident's personal records file.

Subp. 11. Right to use personal property. Residents have the right to retain and use their personal clothing and possessions as space permits, unless to do so would infringe upon the health, safety or rights of other residents or household members.

Subp. 12. Services for the resident. Residents shall not perform labor or services for the residence unless those activities are routine household maintenance tasks.

Subp. 13. Financial affairs. Legally competent residents have the right to manage their personal financial affairs.

Subp. 14. Right to associate. Residents have the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political and community groups without interference if the activities do not infringe on the rights of other residents or household members.

Subp. 15. Married residents. Married residents have the right to privacy for visits by their spouses, and if both spouses are residents of the adult foster home, they have the right to share a bedroom.

In addition to the above recommendations, the committee recommended that, under part 9555.6175 (reporting to the agency), language be added to require licensees to notify the agency as soon as possible when the provider is no longer willing or able to care for a resident. The committee further recommended that providers not be required to post residents' rights in the adult foster home.

Gwen asked the committee members to submit suggestions for or concerning whether or not to add a rule provision pertaining to "providers rights" (versus the agency). Gwen informed the committee members that a copy of part 9555.6255, as revised by the recommendations made by the committee, would be mailed to each committee member as soon as possible.

The meeting was adjourned at 11:15 a.m.

Dated: September 4, 1985

By: Barry Stern BS

SJD-03

MINUTES

Adult Foster Home Rule
Residents' Rights Committee Meeting
August 28, 1985
9 a.m. Cafeteria Conference Room, Centennial Building

Persons in Attendance:

Sue Abderholden - ARC/MN
Gerald Glomb - Provider
Barbara Kellett - Ramsey County Human Services
Grace Nelson - MN Senior Federation
Bob Robertson - DHS/CD
Barry Stern - DHS/Rulemaking
Gwen Wildermuth - DHS/Social Services

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The meeting was adjourned at 11:15 a.m.

Dated: September 4, 1985

By: Barry Stern BS

SJD-03

MINUTES
Adult Foster Home Rule
Restraints Committee Meeting
Tuesday, September 3, 1985, 1:00 p.m., Room D, 4th Floor, Centennial Building

Persons in Attendance:

Sue Abderholden	ARC-MN
Gerald Glomb	Adapted Living Programs
Donald Pribe	Adpated Living Programs
Joyce Haselmann	Ramsey County Human Services
Joyce Kaplan	Ramsey County Human Services
Jim Loving	DHS-MR Division
Barry Stern	DHS-Rulemaking
Gwen Wildermuth	DHS-Social Services

The meeting was opened at 1:00 p.m. by Gwen Wildermuth, who stated that the need to address the use of restraints in the adult foster home rule has been expressed by county workers. The purpose of the meeting was to decide whether or not to add restraint provisions to the rule, and if so, what those provisions should include.

The discussion began with Gerald Glomb noting the need to use therapeutic holding techniques in adult foster homes as an emergency restraint technique. Some supportive living arrangements (SLAs) need to use other techniques, such as time-outs and restraining access to the use of money, in addition to holding.

The committee discussed the use of these techniques, and raised the issues of whether or not they are physical restraints, mechanical restraints, deprivations, etc. See draft or Rule 40, proposed parts 9520.1001 to 9520.1016 (the aversive and deprivation procedures rule).

The committee did not agree on whether or not to include restraint provisions in the adult foster home rule. A strong argument for <u>not</u> including a restraint provision is to avoid the possiblity of inconsistencies with Rule 40 when that rule is eventually adopted; due to the complexity and controversial nature of Rule 40, it would be difficult to accurately identify the provisions that will eventually be adopted. In addition, if restraint language is included in the adult foster home rule, it would be the only existing rule with such language.

The committee did agree that, if restraint language is to be included, the language should be limited to the major concepts described in Rule 40. these concepts include the following:

---a written plan for use of restraints

---informed consent by the resident or the resident's guardian for the use of specified restraints under specified circumstances

---decisions on and periodic reviews (at least quarterly) of plans by interdisciplinary teams for the use of restraints

---documentation that less intrusive restraint procedures were used (without results) prior to using more intrusive methods (and that positive measures were also employed)

Other issues raised included: Should the rule address only the use of physical restraints, or all restraints (deprivation techniques)? Should the rule reference "rules promulgated under Minnesota Statutes, section 245.825" (statutory authority to promulgate Rule 40)?

Gwen and Barry adjourned the meeting by stating that they will draft rule language reflecting the above-mentioned concepts and mail the language to the committee members for their review. However, the language has not been (and may not be) drafted because of department controversy about including it in the adult foster home rule.

Dated: September 24, 1985

By: Barry Stern

Minutes
Rule 51 Task Force
Accessibility Committee
June 5, 1986
1:00 p.m.

Members present: Tom Joachim, Bob Imholte, Kurt Strom, Diane Sprague, Bea Jones, Barb Kellett, Joyce Haselman, and Gwen Wildermuth.

The purpose of the meeting was to review the draft of the accessibility checklist, designed by Diane Sprague of the Minnesota Housing Finance Agency. The certifying workers who are members of the task force generally liked the list. They thought it was quite long but agreed that the detail was needed. They liked the way it was laid out, room-by-room. Joyce Haselman said she "learned a lot" from reviewing it. Diane suggested that she could condense it and make a booklet and separate "answer" sheet. Committee members suggested a section needs to be added at the top of the form recommending who could make up the accessibility review team. For example there should be an accessibility expert, i.e. O.T.R., P.T. or Housing Authority Personnel. Also the provider resident, any family members with information, or staff from a former placement, if appropriate. Diane said that the initial "run-through: of the home should not take more than 30-45 minutes. A second visit to measure, etc. would be needed. Committee members also thought it should have a "Yes", "No", "N.A." format.

There was a discussion of how the results of the accessibility review would be documented and which modifications would be required. The following recommendations were agreed upon.

1. The adult's need for "programming" and living skills training would be considered when looking at household use. An example of the kitchen use would be, if the adult needed to learn food preparation and making the kitchen accessible was not feasible, perhaps these skills could be learned in the community. In this case, it would not be crucial that modifications in the kitchen be made. If the person needed to learn in the home, and the modifications could not be made then the placement would not be appropriate. Common sense would prevail.

2. After the accessibility review is completed, a summary sheet must be done which states the <u>accessibility requirements</u> for that placement. This could be called the "individual access" plan.

3. It was emphasized that, it is not just mobility-impaired adults who may need an accessibility review. Persons with seizure disorders also need accessibility modifications and frail elderly persons. These persons could be termed those with "safety requirement needs".

4. Adults would need to be evaluated annually.

The remainder of the meeting centered on a discussion of "independence at the risk of safety" versus "safety with the loss of independence" with regard to fire safety standards. Kurt Strom said the Council for the Handicapped had no stated position on this issue. There was discussion on both sides of the issue. Bob Imholte stated that when they inspect a home, if it is for less than 3 persons there are no accessibility requirements under the Uniform Fire Code,

even if the persons residing there are handicapped. When there are 4 residents, the home will be inspected as a "supervised living facility". They rate the home as "prompt", "slow" or "impractical" for handicapped persons. Since the fire inspector won't know the condition of the residents and won't be inspecting the house with the four residents in the home, it will be up to the placing and licensing worker to make an appropriate placement. Bob Imholte suggested that the phrase, "the bedroom of each resident who requires the use of a wheelchair must be located on the same floor as the entrance to the residence accessible by ramp" be added back into the current draft or put into the accessibility checklist". Bob Imholte and Tom Joachim stated that the use of mechanical lifts are a problem because: (1) they do not work in emergencies and (2) they take space away from an ordinary stairway that is 36 inches wide, making them a hazard to other residents in an emergency.

MINUTES

Adult Foster Home Rule
Caregiver Qualifications Committee Meeting
Wednesday, September 4, 1985
1:00 p.m., Room A, 4th Floor, Centennial Building

Persons in attendance:

Gerald Glomb	Adapted Living Programs
Bea Jones	Anoka County Health & Social Services
Barbara Kellett	Ramsey County Human Services
Jim Loving	DHS-MR Divison
Elmer Pierre	DHS-Mental Health Division
Barry Stern	DHS-Rulemaking
Gwen Wildermuth	DHS-Social Services Division

The meeting was opened at 1:00 p.m. by Gwen Wildermuth.

The committee discussed qualification and disqualification requirements for providers, caregivers, and household members. The discussion focused mainly on the disqualification factor relating to persons with a diagnosed mental illness.

Elmer Pierre expressed grave concern about the possibility of categorically excluding persons with a mental illness. He stated that, if mentally ill persons are excluded from being adult foster home providers or caregivers, the exclusion must be based on a recent condition, as diagnosed by a psychiatrist or licensed consulting psychologist, and verification (evidence) of behaviors that would make the person unfit to care for residents. The behaviors can be documented by anyone (the psychiatrist, psychologist, county licensing worker, etc.)

The committee agreed with Elmer's reasoning. There was also a consensus to leave the judgment to the commissioner (or licensor if the responsibility is delegated) as to whether the documented behaviors in fact render the person unfit to be an adult foster home provider or caregiver or are detrimental to residents.

The following language was developed:

> Providers, caregivers, and household members must not have a mental illness or condition, as diagnosed by a psychiatrist or licensed consulting psychologist, which manifests itself in documented behaviors within the

past 12 months that the commissioner determines would jeopardize the health, safety or welfare of residents. "Mental illness" means the inability to interpret the environment realistically or the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work and recreation.

The committee also discussed (briefly) the disqualification factor related to convictions of crimes. Issues briefly discussed which need further research include: (1) problems with "substantial evidence" and "preponderance of the evidence" standards, and (2) applicability of/inconsistencies with the Criminal Rehabilitation Act requirements (Minnesota Statutes, chapter 364).

While the Criminal Rehabilitation Act may not be required to be followed in adult foster home standards (see 364.09), the Act could be followed for purposes of consistency with other department rules governing standards for other facilities serving functionally impaired adults (SLR rule, adult day care rule).

A draft of the revised disqualification factors (now in the form of "qualification factors ") will be mailed out to committee members in the near future for their reivew.

The meeting was adjourned at 2:45 p.m.

Dated: September 24, 1985

By: Barry Stern

ADULT FOSTER HOME RULE
Committee Meeting on the Definition of Adult Foster Home
Wednesday, September 4, 1985 9:00 A.M.
Room C, 4th Floor, Centennial Building

Persons in Attendance:

Jim Loving	-	DHS/Mental Retardation
Robert Meyer	-	DHS/Mental Retardation
Cheryl Nyhus	-	DHS/Licensing
Bob Prouty	-	DHS/Mental Retardation
Ed Skarnulis	-	DHS/Mental Retardation
Barry Stern	-	DHS/Rulemaking
Gwen Wildermuth	-	DHS/Social Services

This meeting was held to discuss concerns of the MR Division about the definition of "adult foster home" and other provisions in the most recent draft of the Adult Foster Home rule, proposed parts 9555.6105 to 9555.6275.

A brief summary of the discussion is as follows:

Bob Meyer raised the following five issues for discussion:

1. Definition of "adult foster home": 24 hour supervision vs. less than 24 hour supervision. Taken literally, does the definition mean that there must be "around-the-clock" care available? A caregiver present in the home at all times?

2. Program assurances for active treatment program planning: Should this be dealt with in the rule or in the IHP?

3. Commissioner vs. county approval of variances.

4. Licensing of adult foster homes by Rule 4 agencies.

5. Shift staff models v. traditional foster care models.

Issue #1 was discussed at length. The participants raised hypothetical situations involving care of functionally impaired adults, and had difficulty

agreeing on which situations should be and which should not be licensed as adult foster homes. Factors considered to be relevant in the determination (and definition of "adult foster home") included:

---care in client's own home or apartment vs. care in home or apartment owned or leased by provider or licensee or relatives of provider or licensee

---one or more caregivers residing (sleeping etc.) in the home

---one or more functionally impaired adults residing in the home

---public funding vs. private funding of client's care: Should homes with only clients who do not receive public funds be licensed? Does the Vulnerable Adults Act provide protection for the clients (so that licensing is not necessary when balanced against the right of private parties to contact without government interference)?

These factors were incorporated into the following two diagrams (on the blackboard):

DIAGRAM #1

Location/Settling of Client Care		Applicable Licensing Standards	
		Service/program	Facility
* I. Client's own home/apt.	(a)24 hour supervision needed	?	none
	(b)less than 24 hour supervision needed	Rule 18 (SILS) and others	none
**II. Provider's home/apt.	(a) 24 hour supervision needed	Rule 203, Rule 185, and others	Rule 51
	(b) less than 24 hour supervision needed	Rule 18	Rule 51

*"Clients own home or apartment" means a home or apartment owned or rented in the clients own name; not a home or apartment arranged for by the provider; and (possibly?) a home of a friend or relative of the client (but not the provider).

**"Provider's home or apartment" means a home or apartment in which the provider or the provider's relatives (or employers?) have a direct or an indirect financial interest.

DIAGRAM #2

Protection for functionally impaired adults: Public funding vs. private funding.

	Licensing	Guardianship	Protection
Public funding	Rule 51	public guardian-ships	Vulnerable Adults Act
Private funding	*Rule 51	Private guardian-ships	Vulnerable Adults Act

*Some of the participants at the meeting do not think it is necessary to license homes with all privately-funded clients.

Conclusions

The definition of "adult foster home" needs to be revised to take into consideration (and resolve) the issues and concerns raised at this meeting.

Issues #s 2, 4 and 5 were not discussed, although most or all of these issues are anticipated to be dealt with in the revision of Rule 203 (adult foster care rule - placement, etc.).

Issue #3 (variances) was briefly discussed. The following idea was suggested to not give counties unbridled variance power: Give the department "veto power" by requiring all variances that a county wants to grant to be approved by the commissioner; if not approved or disapproved within 30 days, then the variance is (automatically) approved.

The meeting adjourned at 11:30 A.M. A one-hour follow-up meeting was held on Thursday, September 12, 1985, at 1:20 P.M. in Room B, 4th Floor, Centennial Building. This meeeting was attended by Jim Loving, Bob York/(DHS/Mental Retardation), Cheryl Nyhus, Barry Stern, and Gwen Wildermuth. The discussion of the definition of "adult foster home" was continued, with no concrete solution. A suggestion to clear up the "24 hour" language was to use the term "24 hour substitute for care" (as used in the Public Welfare Licensing Act) and define that term.

Dated: September 24, 1985

By: Barry Stern

Adult Foster Home Rule
Def. of Adult Foster Home Committee Meeting
9:00 A.M. Wed, Sept 4, 1985 Room C - Centennial Bldg
(9:30)

Sign-up

Barry Stern - DHS Rulemaking

[signature] - DHS - Mental Retardation

~~Bob Prouty~~ - ~~DHS~~ - Mental Retardation

Ed Skamuhs - " "

Owen Wildermuth DHS - Salem

JIM LOVING - DHS - MENTAL RETARDATION DIV

Cheryl Ryhus - DHS - LICENSING

9-3-85 Restraints Committee

Name	Agency / Organization
Gerald Blomberg	Adapted Living Programs
Donald Priebe	" " "
Lee Alderhold	ARC MN
Barry Stevens	DHS - Rulemaking
Joyce Hackmann	Ramsey Cty Hum. Serv.
Jim Loving	DHS - MR DIVISION
Joyce M. Kaplan	Ramsey County Comm. H.S.

Exhibit E.

Minutes of Adult Foster Care Task Force Meeting
February 28, 1986, Room A, Centennial
10 a.m. to 2 p.m.

Task Force members present: Kurt Strom, Gary Erickson, Russ Cain, Anne McCulley, Claudia Swanson, Mary Jo Verschay, Joyce Haselman, Nancy Geertz-Larson, Harvey Glomman, Ralph Willenbring, Grace Nelson, Gwen Wildermuth and Jane Nelson.

Gwen Wildermuth introduced committee members and discussed the general purpose of the proposed rule revision. The rule is to set standards for the administration of adult foster care services by the county and local agency. The revision is of current Rule 203 (parts 9555.5100 to 9555.5400). This rule is the companion to the adult foster home licensure rule (Rule 41) which is now undergoing legal review by the department's attorney. The state departmens of health, public safety and administration (building code) are also reviewing Rule 51.

Jane Nelson outlined the rulemaking process and noted that this rule could go the noncontroversial or controversial rulemaking route. Since Rules 51 and 203 cross reference, it may be necessary to bring both to hearing simultaneously.

Mr. Cain requested that counties be notified about rules undergoing development. J. Nelson pointed out that the Notice of Solicitation for Comment is published in the State Register and this is a document to which county agencies should subscribe. She also pointed out that Bev Barker of the County Director's Association is notified when rulemaking is initiated.

Mr. Cain said it would be easier for the counties, in terms of budgeting, if rules were implemented on a yearly basis rather than mid-year so agencies would have time to gear up and budget for projected cost increases.

Ms. Wildermuth requested that the committee first look at three basic components of the rule: adults appropriate for foster care, the placement process and county services for adults in foster homes.

Scope: Mr. Glommen said the rule parts as drafted governed only those counties which elect to provide foster care service. Under Rule 160, foster care is not a mandated service, yet foster homes wanting to be licensed because the owner/operator wants to or is providing foster care would not be able to be licensed by the county if the county has not elected to provide foster care services. Gwen Wildermuth indicated this was an issue that needed to be looked at further. Wildermuth said counties will want to license foster homes because they will view foster care as fiscally prudent. She noted too that counties will have to be addressing the use of foster care in the course of their CSSA plan development. Mr. Cain asked for clarification of this issue. He contended that were foster care arrangements are made through private pay arrangements, then foster care licensure shouldn't be required. He contended that persons should have the privilege to make private arrangements for care within the provisions of the adult protection laws and thus should not be required to be licensed as adult foster homes. Adult foster home licensure would only be required if county social service placements are made.

Characteristics of adults needing foster care. Who will use these facilities? Ms. Wildermuth said they will be used for persons meeting the general definition of "functionally impaired." The intent is not to refine this definition further so those adults on the borderline of requiring more acute placement, may be eligible for foster care.

Cain agreed that the definition shouldn't be too specific or prescriptive. J. Nelson, however, commented that if it isn't specific enough, there may be a presumption by those seeking such a social service that they are indeed eligible for foster care while the county may interpret the rule to mean the individual is not eligible and deny service.

Mr. Glommen said he could see adult foster homes being used for corrections referrals. Ms. Verschay asked if corrections had any statutory authority in this area and Ms. Wildermuth said licensing should be asked if they perceive adult foster homes will be used for corrections placements.

Definition of agency. Mr. Cain questioned whether this shouldn't be broader and include private placing agencies. The county board contracts with private agencies for some services and private agencies to place adults in county-certified homes now. Glommen supported the idea of adults being placed by private agencies.

Casemanagement. Mr. Cain asked for clarification of the county role in giving this service to residents and county responsibility for casemanagement to residents with mental retardation who are in foster homes. He said his county wants to be responsible for casemanagement services to all residents in foster homes in his county.

Jane Nelson suggested looking at the scope of the rule in terms mandating standards for foster care services administered by the county board rather than the local agency and then defining county board, county financial responsibility, and host county.

Foster care for the mentally retarded and supportive living arrangements. Mr. Glommen said persons with severe mental retardation were being placed in foster homes because Rule 34 facilities won't take them. He noted the lack of foster care standards in the proposed rule to deal with this situation. Wildermuth pointed out that the standards for persons with mental retardation or related conditions are already contained in Rule 185. The standards in Rule 203 reference Rule 185 whenever persons with mental retardation are affected. Wildermuth indicated that the MR task force members would clarify the situation with MR waiver standards further in the future.

Mr. Cain requested clarification of the relationship betwen adult foster care and the provision of SLA/MR waiver services. Ms. Wildermuth said that at this point, SLA services are considered a "program-overlay" in addition to adult foster care.

Discussion of part 9555.5705, Placement in Foster Care. Subp. 1.C. It was suggested that the term "daily living assistance or supervision" be added. Ms. Verschay suggested "living skills training". Ms. Wildermuth said the term "training" implied formal teaching and that the term "assistance" referred to aid or help and perhaps it should be either. The need to define the terms relating to foster care was requested.

Committee members requested further definition of the term "supervision". Wildermuth indicated the intent was to have supervision available according to individual needs but specifically at night during the resident's sleeping hours." This criteria was developed with the MR division and licensing division to distinguish adult foster home situations from semi-independent living (SILS) services for the mentally retarded. The term "24-hour care" was a concern because of liability issues for providers. Wildermuth explained that the Public Welfare Licensing Act distinguishes between two kinds of facilities--those providing less than 24-hour care and those providing 24-hour care.

Placement criteria. G. Nelson advocated for specific criteria rather than total county discretion. She advocated for clear, statewide standards. Mr. Cain discussed the need for county discretion within the guidelines of the county CSSA plan. G. Nelson indicated a need for statewide uniformity as people move about. She said her membership wants statewide protection.

Members discussed whether eligibility for GA, MA or MSA in and of itself was the eligibility criteria. It is a determining factor if persons seeking adult foster care are not eligible or do not wish to spend their own funds. Most committee members did not want to use the term "eligibility" in the rule because it might be confused with financial "eligibility" standards. It was suggested that part 9555.5705, subpart 1 be headed "Assessment of functional impairment and need for foster care services." Mr. Willenbring asked about the relevance of Title 19 regulations which specify that persons be placed in the "least restrictive setting." Nancy Geertz-Larson noted that the population of "functionally impaired" is so nebulous her county may have difficulty determining for whom homes should be recruited. Ms. Wildermuth said the county will be defining populations in need for foster care and determine home recruitment through the CSSA process. Geertz-Larson asked if there was room in the proposed rule parts for the county to deny foster care services to someone who has set a fire or was recently hospitalized for severe mental illness. This would probably come out in the assessment process Wildermuth noted.

Willenbring recommended that there be statewide provisions stating under what circumstances foster care services be provided to functionally-impaired adults.

Mr. Cain pointed out, as a county administrator, that the county can't be mandated to provide services it can't afford.

On the issue of assessment of functional impairment, the "best data available" should be used. Cain agreed this was a reasonable approach. He suggested an overall social worker assessment with the option then to require additional testing or diagnosis if the initial assessment indicated this was necessary.

Matching. Joyce Haselman liked the term "matching". She said the role she has is that of matching the compatibility and life style of the person seeking placement with the home. G. Nelson agreed. Other issues suggested for consideration during the matching process were smoking, presence of pets, other residents, composition of the family, level of "family" structure within the home, the daily routine, religion, liberalness or conservativeness of the home setting.

On Item B, Subpart 4, page 10, Strom said the more correct term might be "foreground" rather than "background." This subpart should also consider "special provider skills to meet the needs of the adult" Geertz-Larson said. The needs of the adult must be matched with the ability of the provider.

Glommen suggested the language "the agency must ensure that the adult foster home provider can meet the needs of the adult as specified in the individual service plan."

Review and monitoring. Review and monitoring of the continued need for foster care services would be done in accordance with Rule 160, Wildermuth said. It was suggested that Item E of this subpart read "environment" rather than "program" and that Item F consider also proximity to employment, education and community resources.

Subp. 5. Preplacement visit. It was requested that the rule clarify whether this function needs to be performed by the agency social worker. An aide or the resident's legal representative could perform it under the direction of the social worker Swanson said. Haselman and Glommen noted that often the operator visits the prospective resident first at a place away from the residence.

It was suggested that many of these discussion items be addressed before placement, except in the case of emergency placements. Those involved in the discussion should include the foster home operator, the resident, and the resident's representative, if applicable, and a representative of the placing agency.

Mr. Erickson noted that casemanagement should be the responsibility of the county of "financial responsibility for placement" and not the county where the home is located.

Development of Individual Resident Placement Plan, part 9555.5505. Glommen was concerned that the plan would generate too much paper for providers. It was clarified that this wasn't a daily habilitation plan, unless required by rule 185, but a general plan for annual, weekly or perhaps daily activities. Mr. Cain asked what the outcome and monitoring measures would be.

Nelson noted that the rule didn't mention appeals and how they should be handled.

The next meeting was tentatively scheduled for Friday, March 28.

Exhibit F

AF Care Task Force

Adult Foster Care Rule Task Force

Name	Address	Phone	Representing
Linda Molenaar	Norman County Social Service Center County Office Building Ada, MN 56510	218/784-7136	Rural County
Diane Markel	Box 248 Crookston, MN 56716	(h) 218/281-1134 (o) 218/281-5975	
Kurt Strom	Council For the Handicapped Room 208 Metro Square 7th and Robert St. Paul, MN 55155	296-1742	Handicapped
Richard Jochem	Minnesota Mental Health Advocacy Coalition 265 Fort Road St. Paul, MN 55102	222-2741	Mental Health
Elroy Berdahl (OR Tom Joachim)	State Building Inspector 408 Metro Square 7th and Robert St. Paul, MN 55101	296-9991	Bldg. Inspector
Bob Robertson	Department of Human Services Space Center - 6th floor 444 Lafayette Road St. Paul, MN 55101	296-4620	Chemical Depend.
Harvey Glommen	1048 87th Avenue N.E. Blaine, MN 55434	786-3938	Adult Foster Home Provider
Bob Imholte	State Fire Marshall's Office 1246 University Avenue St. Paul, MN 55104	296-7641	Fire Marshall
Jim Loving	RR 1, Box 104 Park Rapids, MN 56470	218/732-4702	M.R. Division
Grace Nelson	7500 York Avenue South, #307 Edina, MN 55435	831-5867	MN Sr. Federatio
Gwenn Lovetang	Hennepin County Bureau of Soc. Services Hennepin County Gov't. Center-13A Minneapolis, MN 55487	348-8881	Certifying Worker
Melissa Butler	1247 St. Anthony, Apt. 213 St. Paul, MN 55104	642-9158	Consumer
Marie Knisely	8825 York Road Bloomington, MN 55431	831-4731	Adult Foster Home Provider
Barbara Kellett	Ramsey County Human Services Dept. 160 East Kellogg Blvd. Fifth Floor St. Paul, MN 55101	298-4926	Urban County

Name	Address	Phone	Representing
Sue Abderholden	Association for Retarded Citizens - MN 3225 Lyndale Avenue South Minneapolis, MN 55408	827-5641	Mentally Retarde
Ralph Willenbring	Minnesota Foster Parents Association 22360 Circle Lane Rogers, MN 55374	work 786-9331	MN Foster Parent Association
Bea Jones	Anoka County Community Health & Soc.Serv. Anoka County Courthouse Fourth Floor Anoka, MN 55303	421-4760, Ext. 1427	MN Assoc. of Adult Foster Care Workers
Barbara Kaufman	Minnesota Association of Voluntary Agencies 141 S. Griggs-Midway Bldg. 1821 University Avenue St. Paul, MN 55104	645-0267	Voluntary Agenci
H. Michael Tripple	Minnesota Dept. of Health 717 Delaware Street S.E. Minneapolis, MN 55440	623-5448	MN Health Dept.
Cheryl Nyhus	Department of Human Services Space Center - 6th Floor 444 Lafayette Road St. Paul, MN 55101	296-4037	Licensing Divisi
Julie Harris	Olmsted County Dept. of Social Services 515 2nd Street S.W. Rochester, MN 55901	507/285-8922	Supervisor's Association
Gary Erickson	Courthouse Thief River Falls, MN 56701	218/681-2880	Director's Assoc
Gerald Glomb	1365 Englewood - Suite 201 St. Paul, MN 55104	641-0041	Provider
Dennis Holman	2499 No. Rice #220 Roseville, MN 55113		Provider

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
CENTENNIAL OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

May 8, 1985

Beverly Barker, President
Social Services Director's Association
County Office Building
P.O. Box 130
Glencoe, MN 55336

RE: Adult Foster Home Rule Committee

Dear Ms. Barker:

This letter is to notify you that the Department of Human Services is setting up a rule advisory committee for promulgation of a new rule to replace Minnesota Rules, parts 9555.6100 to 9555.6400, governing standards for adult foster homes.

The following persons have been recruited to serve on the committee so far:

Linda Molennar	Social Worker, Norman County
Mary Jo Verschay	DHS - mentally retarded
Kurt Strom	Council for the Handicapped
Richard Jochem	Mental Health Advocacy Coalition
Bob Robertson	DHS - chemically dependent
Marie Knisely	adult foster home provider
Barbara Kellett	licensing worker, Ramsey County
Tom Joachim	state building inspector

In addition, the following have been contacted for a representative:

Minnesota Association of Adult Foster Care Workers
Minnesota Association for Retarded Citizens
Minnesota Senior Federation
Minnesota Association for Voluntary Agencies
Social Services Supervisor's Association
Minnesota Foster Parents Association
DHS Licensing Division
Minnesota Department of Health
Ramsey County (for resident or former resident to represent consumers)

I welcome your comments and suggestions concerning the development of the above-mentioned committee. Please direct your suggestions to Gwen Wildermuth or myself:

Gwen Wildermuth
Social Services Division
Dept. of Human Services
4th Floor, Centennial Office Bldg.
658 Cedar Street
St. Paul, MN 55115
(612)296-0311

Barry Stern
Rulemaking Unit
Dept. of Human Services
4th Floor, Centennial Office Bldg.
658 Cedar Street
St. Paul, MN 55115
(612)297-1490

Thank you.

Barry Stern

Barry Stern
DHS Rulemaking Unit

cc: Gwen Wildermuth

COMBINED RULE 51 AND RULE 203 TASK FORCE MEETING

JUNE 16, 1986

A G E N D A

Exhibit 6

9:30 Welcome and Introductions

9:40 Approval of Minutes

9:50 Progress of Rules - Gwen Wildermuth
Status of Rules and Timetable - Jane Nelson

10:00 Review - Corrected Copy of Revisor Drafts of Rules 203 and 51

10:10 Discussion of Issues

- 9555.6185 Subp 4 - Training Subjects (p. 26)
- 9555.6125 Subp 10 - Restricted Homes (p. 18)
- 9555.6225 Subp 8 - Residents Medication (p. 30)
- 9555.5105 Subp 31 - Representative (p. 5)
- 9555.5705 Subp 3A - Placement Review (p. 11)

11:20 Short Break

11:30 Discussion of Items of Task Force Members

12:30 Meeting Adjourned

Thank you!!

Exhibit G

MINUTES OF THE COMBINED TASK FORCES
ADULT FOSTER CARE SERVICES AND
ADULT FOSTER HOME LICENSURE
MONDAY JULY 16, 1986
ROOM A, VETERAN'S SERVICE BUILDING

Present: Bev Hanson, Carlton County
Grace Nelson, Senior Federation
Mary Jo Verschay, DHS Mental Health Division
Gwen Wildermuth, DHS Social Services Division
Jane Nelson, DHS Rules Unit
Gwenn Chriss, Hennepin County
Mary Bruns, DHS Preadmission Screening
Bea Jones, Anoka County
Kurt Strom, Minnesota Council for the Handicapped
Sue Abderholden, ARC
Claudia Swanson, Ramsey County
Tom Joachim, State Building Code
Harvey Glomnen, Foster Care operator
Peggy Hanes (Russ Cain), Region VIII, North
Barb Kellett. Ramsey County
Cheryl Nyhus, DHS Licensing

Wildermuth called the meeting to order at 9:40 and introductions were made.

The minutes of the Feb. 28, 1986, Adult Foster Care Task Force meeting were approved.

Wildermuth outlined progress on the combined rules since the last meeting. Comments have been received and reviewed from 13 task force members. Most did not raise major issues. Wildermuth noted the need for members to comment positively on provisions they support. The rules have been reviewed by the Revisor and no substantial changes were made. The Revisor's draft of the rules was distributed with written changes indicated in response to task force and attorney general comments. Also indicated in the margins were questions for discussion based on review by the attorneys. The attorney general has now reviewed the rule on licensure (DHS 51, parts .6000 et al) twice and the rules on care and service (DHS 203, parts .5000 et al) once.

Technical changes will be made to a number of the parts on care and service assessment to specify the relationship to adopted rules 160 and 185. The variance section will not be restricted to specific rule parts. The relationship between Individual Service Plans, Individual Resident Placement Agreements, and Individual Habilitation Plans will be clarified.

The definition of "supervision" was reviewed and discussed in light of the AG's proposed wording changes. Clarification of "oversight" and "sleeping hours" was requested to distinguish between a SILS program and a foster home. Nyhus reiterated that adult foster care is not an independent living situation with staff on call. Nor is it direct eyeballing of a resident 24 hours a day. Verschay said foster care was more than "awareness." It does mean "oversignt", she said. "Level of oversight as determined by the ISP or IRPA" was suggested.

The proposed definition of "protection " was discussed and determined to mean compliance with provisions of the Adult Protection Act. Reference to development of specific protection policies in the program section will be clarified.

Wildermuth noted that an accessibility checklist is nearly complete. It was developed by DHS, the Minnesota Council for the Handicapped, State Fire Marshal's Office, the Minnesota Housing Finance Agency, and local agency certifying workers. It will replace the more specific standards contained in previous drafts and will allow for individualized mobility modifications.

Training. Wildermuth noted that not very many committee members had comments on the training section. However, DHS attornies, on review, strongly suggested that priorities be established for minimum training in some areas. First aid and CPR were suggested. Nelson said these are mandated for family day care providers. Compliance with Welch Levine may necessitate training in these areas. Abderholden said staff in ICF/MRs are required to be trained in first aid and CPR. Glommen said the general population and homes in general aren't required to have this training, that such a standard would further "institutionalize" the foster homes, that it might be okay if persons placed have needs beyond persons in normal homes, that payment for training is an issue, and that training in areas such as self esteem or suicide prevention are more frequently used and more important. Bruns said first aid was basic. Swanson suggested that training be individualized depending on who is placed in the home. Hanes noted that small counties don't have resources to provide individualized training. Wildermuth said a number of counties have a policy that they will pay for provider training. However, this is a county discretionary policy. Abderholden said initial training in first aid, abuse and neglect laws is minimal. After that, training could involve other areas. Hanson said Carlton County has no funds for training adult foster home providers and the cost of substitutes to provide care while operators are off getting trained must also be considered. Bruns said training in a number of subject areas, such as mental health, can be obtained at little or no cost.

Committee members reviewed the restricted home idea again. Nelson strongly recommended deletion of the concept as unnecessary if training requirements made mandatory for all operators. Kellett supported a single standard.

Nelson summarized the training options recommended. A basic core of first aid and CPR would be required in addition to an initial three hours of orientation which would cover the rule provisions and vulnerable adult protection and reporting requirements. Twelve hours of CPR and first aid would be required the first year with a four hour CPR refresher course within 12 months. Then 12 hours of individualized training in the subject areas listed would be mandated annually thereafter for caregivers with zero to five years of licensure or experience as an adult foster home caregiver. Caregivers with six or more years of licensure or experience would have to complete six hours of continuing training.

Definition of Representative. Wildermuth asked committee members if this definition should be expanded to include persons who are not legally designated as a representative for the resident. Hanson noted that AG Bev Heydinger took the opposite position (that the definition must be restricted to legal persons only) in Rule 185. Mixing advocates and non legal representative together when performing the functions specified in

the rule was not endorsed by committee members. They suggested a separate definition for representative (meaning a legal representative) and an advocate who would be someone who would clarify program needs. The rule could specify that the resident could choose to have an advocate present at specific phases in the assessment process.Nelson pointed out that rules indicate what must be provided or done and usually don't indicate things that are already allowed. In this case it was presumed that the resident had a right to associate with persons of his or her choosing and that such persons may be present at times that the resident chooses provided the resident is competent to make that decision.

Placement review. Page 11, subp 3A. Chriss noted that Hennepin County mandates that everyone must have a social worker assigned to them. Hanson took issue with this position. She said Carlton County policy is to provide a social worker if the person requests one or needs protection. It is doubtful there is authority to require a social worker for everyone in an adult foster home. Clarification is necessary in subparts 2 and 3 to specify that the 30 day review period begins after the day of initial placement and face-to-face contact be mandated.

Medication. Wildermuth explained AG concerns with the rule part. She said the Health Department has not officially supported this provision. After discussion task force members recommended that provisions relating to injections be reinstated from previous drafts, that some initial training and monitoring by a physician or public health nurse be specified, and that the physician's permission and determination of appropriateness be moved to the top of the subpart. Committee members present were unanimous in their endorsement of retention of the medication provision. Hanson noted that medication will be and is being distributed and delivered in foster homes. Chriss said such a provision was very reasonable if tied to the physician. Abderholden noted the cost savings to medicare with such a practice and Bruns and Swanson pointed to excessive costs for daily home nursing assistance if such a provision were not accepted. And Wildermuth noted that without such a provision counties would likely develop their own individually.

Assistance with cash resources. Glommen asked for clarification as to whether resident assets and resources in excess of $150 could be subject to assistance from the operator or staff. He also noted that excess funds could be deposited or placed somewhere other than a bank. Hanson said operators frequently handle at least a months cost of care amount in the form of county payments or social security checks. Recommendation was that the operator and employees be prohibited from handling resources in excess of a resident's monthly needs and $150 of petty cash. Anything in excess would have to be placed with an entity not affiliated with the operator or caregivers.

Qualifications. Kellett suggested changing "mental illness" in section 5, page 17, to "mental health" Bruns suggested "mental status report exam."

Criminal check. Nyhus noted that juvenile records were not routinely available. Statutory changes in this area may be necessary in this area.

Adult Foster Home/Care Combined Task Force
Monday June 16, 1986
Room A Vet. Bldg

Name	Organization
Jane Nelson	DHS - Rules
Gwen Wilsmith	DHS - SS
Bev Hanson	Carlton Co.
Gwenn Chriss	Hennepin Co
Mary Jo Versday	DHS - Mental Health
Grace Nelson	MN Senior Federation
Mary Bruns	DHS / PAS/ACG
Bea Jorgs	Anoka
Harvey Flemmen	Adult Provider
Peggy Hanes (Russ Cain)	Region VIII/ N.W.D.
Sue Abderholden	AMC
Claudia Swanson	Ramsey Co Human Svcs.
Tom Joachim	Bldg Code Div.

Exhibit H,

SOCIAL WORKER

V-1102

KIND OF WORK:

Under direction, performs work in providing social work services on cases involving complex social problems and social treatment plans; performs responsible and difficult casework, directs service programs or provides work direction to para-professional staff; and performs related work as assigned.

EXAMPLES OF WORK: (Illistrative only)

Interviews clients at intake.
Carries a caseload where a need for continuing social casework predominates.
Provides counseling to families and individuals.
Conducts complex case evaluation for the purpose of assessing problems and determining appropriate types and methods of treatment.
Prepares intensive long or short-term treatment plans which require a fund of casework knowledge.
Identifies client situations which require intensified service and brings to the attention of supervisor for help or referral.
Provides vocation/employment services.
Provides direct services to emotionally, physically, or socially handicapped individuals.
Provides services to delinquent children.
Provides or assists in providing services to other cases involving difficult or complex social and financial problems.
Interprets programs to clients, refers clients to appropriate community services.
Interprets social and emotional factors to others involved in treatment of clients.
Prepares social histories with emphasis on psycho-social factors, adoption, or foster home placements.
Supervises foster home placements.
Interviews and screens prospective adoptive parents.
Provides preventive services.
Interprets policies and regulations to clients.
Provides casework services for rehabilitation and care of children.
Prepares and maintains case records which meet federal, state and local guidelines.
Dictates findings and correspondence.
Prepares regular and special reports.
May provide work direction to social work para-professionals.
Participates in in-service training and other staff development activities to increase knowledge of social work processes and skill in application to individual cases.

KNOWLEDGES, ABILITIES AND SKILLS REQUIRED:

Knowledge of the principles and techniques of interviewing and recording in social work and the ability to apply them.
Knowledge of individual and group behavior.
Knowledge of social casework objectives, principles, and methods.
Knowledge of socio-economic factors which promote stable family life and understanding of the elements which affect family security.
Knowledge of the principles of community organization.
Some knowledge of general and social legislation.
Knowledge of physical and mental illness and their impact on personality.
Knowledge of social welfare research methods.
Knowledge of family systems and dynamics.

amended 10-16-85

Ability to effectively apply casework knowledge and skills.
Working ability to work constructively within an agency in the community setting and in effectively utilizing appropriate resources and services.
Ability to work constructively in the development and coordination of community resources to meet special needs.
Ability to manage time productively.
Ability to prioritize caseloads.
Ability to communicate effectively, both orally and in writing.

MINIMUM QUALIFICATIONS OF EDUCATION AND EXPERIENCE:

A bachelor's degree from an accredited college/university with a major in social work, psychology or sociology.

Exhibit I

Minutes of Meeting
March 26, 1986

HANDICAPPED ACCESSIBILITY COMMITTEE
of the Rule 51 Task Force
(Adult Foster Home Licensure)

Present at meeting at Minnesota Council for the Handicapped Offices: Kurt Strom (MCH), Dianne Sprague, (MHFC), Bernie Hughes, Walli Sherseth and Mr. Sherman (home operators), Joyce Haselmann and Barbara Kellett (Ramsey County), Jane Nelson and Gwen Wildermuth (DHS).

The committee meeting was arranged because Barbara Kellett, task force member, contacted Gwen Wildermuth and indicated she had been using the Rule 51 draft during recertification visits to adult foster homes and found that the Special Licensing part "did not work out" because the provisions didn't match the needs of the residents. A provider in Ramsey County also called after reviewing the draft with the same comments. Bea Jones, task force member, called to indicate she thought portable mobility aids need to be allowed.

Persons invited to the meeting included task force members, Bea Jones and Gwen Lovetang, but they had other committments. Both members verified concerns about the accessibility section of the draft of Rule 51.

Wildermuth requested that committee members comment on whether it was practical for homes to meet the Special Licensing Standards for mobility impaired and handicapped contained in the February 6, 1986 draft. Strom was concerned that there be foster care available for the handicapped. Sprague pointed out that the rule provisions weren't broad enough to meet individual needs. The standard may require appliances to be placed where they can't be used and presumes ramp use for a wheelchair resident who may also be a stroke victim.

Kellett noted that most foster care placements are long term. The standard must be individualized she said.

Sherseth explained that though her daughter can use a wheelchair when outside the home, the daughter prefers to crawl around inside the home. Exercise is beneficial to her she said and the cost of structural changes would be prohibitive. If the choice boils down to making structural changes and keeping the child at home versus moving the child to an institution, the choice may be institutionalization because the operator can't afford the structural changes she said.

Sprague suggested distinction be made between homes providing long-term care to a specific individual and homes providing generalized short-term care.

The first floor bedroom is an issue. Homes don't always have bedrooms and baths on the first floor. Sometimes lifts or elevators are cheaper than a bedroom or bath addition said Hughes. The fire marshal is concerned about independent egress in event of a fire and power outage DHS noted.

Kellett suggested prior consultation with an occupational therapist or physical therapist on the individual's accessibility modification needs.

Wildermuth suggested that the Special Licensing Standards be removed from the draft of Rule 51 and an "accessibility checklist" be referenced and become part of the placement process in Rule 203. The committee concurred that this might be a way to handle accessibility on an individual basis.

Sprague noted that MHFA funds are very, very limited for private home modifications. Consultation should also include someone with hardware and structural expertise.

Nelson suggested a team assessment approach. An individualized plan would be developed after consultation with people who know the clients functional ability and needs and people who know about quality codes and structure. How many foster care clients are we talking about? How much of an assessment burden? Ramsey County said they have 11 who are mentally ill and physically disabled. Wildermuth said that is out of 900 statewide placements. The number would be fairly small.

There was a discussion about who would be considered "experts" on accessibility. The following were suggested: architects with knowledge of functional ability and accessibility design, occupational therapists, physical therapists and housing authority personal were mentioned. Because homes aren't licensed yet, assessment would be necessary for all initially.

Strom wanted to know about the appeal process. Wildermuth said this would occur through Rule 160. Strom asked that the accessibility plan specify what must be done by the provider to meet the individual's minimum accessibility needs for entry, access, and hygiene and be geared to maximize the independence of the client.

The problem of cost was discussed. Wildermuth mentioned that one place a county could reimburse for accessibility would be through the adoption of a "difficulty of care" rate structure that included accessibility. Only 34 counties have "difficulty of care" scales now and most of them do not include this as a criterion. The county would have to evaluate how much extra to pay to keep someone in adult foster care who is mobility impaired rather than pay the larger long-term institutionalization costs.

Hughes said that the assessment must also assess the emotional attachment needs of the client, not just the physical needs. Maybe emotionally it's better to keep the person in a more emotionally secure setting.

Sprague emphasized that the way the Special Licensing Standards in the draft of Rule 51 were written, would require considerable cost and could negatively effect resale.

Exhibit J

RECRUITING ADULT FOSTER HOMES

The primary goal of any foster home recruitment campaign is to certify/license within a reasonable time period a pre-determined number of new foster care providers who are able to do the job well. Any worker who has had the experience of attempting to recruit quality foster homes knows how complex the effort of obtaining these homes is ... and how frustrating the process can be. To lessen the frustration and to enhance the results, the following steps are recommended:

Step 1: Obtain an agency commitment to support a long-term recruitment effort on an ongoing basis.

Rationale: "A major function of recruitment campaigns is to ensure the maintenance of an ongoing positive awareness of foster care and the need for foster homes." (Meltsner, 1984) People need to hear about a new concept (as it relates to them) several times before they seriously consider an action response; it is therefore essential in successful recruitment to keep the public aware of the concept. Experience shows that individuals respond after considering foster care in some way for approximately one year. The "snowball effect" can be expected to begin 12-18 months after the start of your campaign. Because of this time delay, then, a commitment to recruitment necessarily must cover a period from 18 months to 2 years. A recruitment calendar to cover this period ought to be developed at the beginning of your campaign. "A good recruitment campaign should have a snowball effect starting slowly with the number responding increasing steadily over time. You can expect it to take a minimum of 6-12 months to build momentum." (Meltsner, 1984)

How to: Present the concept of Adult Foster Care to the board of your agency, using audio-visual aids such as a slide-tape show (e.g. Adult Foster Care: A Viable Option see end of Chapter to order) and a brief discussion covering the benefits of Adult Foster Care to the client, the provider and the community. Request suggestions from the board members for the recruitment and public education campaign you wish to implement; then act on the viable suggestions. Also present the program in agency staff meetings so that all members of the staff understand the program and can act as informal "ambassadors" in the community.

Step 2: Know the program and know what to look for in prospective foster home providers.

Rationale: How is it possible for a worker to interview applicants, or for the public to respond to your appeals, when neither party has identified just what actually is involved in carrying out the roles of "foster care provider?" "Another reason people are not knocking down your door in order to become foster care providers is that, for the most part, people are uninformed or misinformed as to what adult foster care is all about." (Meltsner, 1984) It is essential that you recruit foster care providers who are capable and willing to perform the functions that the agency and the job requires; therefore you need to be able to describe foster care accurately.

How to: Study available materials thoroughly. Consult others who may have the program in place in their agency already. Consider using a job description for adult foster care providers; a sample job description is included in the next section which you may use as it is or adapt to your agency's own needs.

Step 3: Identify clear, measurable and realistic goals and objectives. (See Needs Assessment at end of this section.)

Rationale: Essential for accountability, the attainment of goals and objectives reflects a measure of achievement as well as focusing upon areas that are not working for you.

How to: Become familiar with the demographics of your county and assess the potential need for adult foster homes within your community. Assess and target the potential "pool" of providers in your area. This knowledge and assessment will allow establishment of reasonable goals and objectives.

Step 4: Seriously consider forming a task force or recruitment committee.

Rationale: Recruitment is enchanced when members of the community are actively involved. Pooling of resources and talents will significantly lighten your workload, while providing you a source of ongoing support. No one person has the necessary expertise in all areas--choose people on your committee who have talents and interests in areas which you do not!

How to: Contact groups and organizations within

your county to ask that one of their members serve on the task force. The task force could be comprised of representatives from the clergy, civic groups, health care providers, media (newspaper, radio and TV), educational institutions, and special interest groups such as the Committee on Aging in your county, the Mental Health Advisory Board, etc. Don't forget to include a potential or actual provider if possible!

Step 5: Remember that utilization of a <u>variety of methods</u> of recruiting is most effective: personal contact with the public combined with mass media coverage is a winning approach. Your choice of recruitment modes must achieve the initial goal: to maintain a continual public awareness of foster care. SEE LIST OF RECRUITMENT MODES IN THE FOLLOWING SECTION.

<u>Rationale</u>: It has been said that a person needs to hear a new idea 7 times before the thought becomes assimilated. Repetition of the new concept through several methods of reaching the public is vital to the recruitment program!

<u>How to</u>: Utilize the following recruitment modes--samples of each are included in this manual:

1) Print Media
   a) Newspaper advertisements
   b) News releases
   c) Newspaper articles/human interest stories

2) Radio/TV/Cable TV
   a) Public Service Announcements for radio, TV and Cable TV - includes introductory letter and thank-you letter as follow-up
   b) Radio talk show presentation outline (1)
   c) Cable TV message

3) Displays/Posters/Pamphlets
   a) Adult foster care display
   b) Book marker
   c) Pamphlets
   d) Poster

4) Mailings
   a) Invitational letter
   b) Letters to clergy/church bulletin inserts

5) Public Presentations
   a) Announcements of informational meetings
   b) Presentation outlines
   c) Slide/tape show-script

More "How to": A "tickler system" of advertising has been found to be particularly effective in managing the timing and the delivery of the actual advertising recruitment modes. (See Tickler System of Advertising in the next section.) The system is designed to trigger a pre-determined sequence of recruitment modes over an 8 week period; this sequence of recruitment would then be repeated over the course of your campaign. For example, during the first week of your advertising efforts, you would utilize a newspaper ad, a church bulletin (sent with a letter to clergy) and a public service announcement. By the eighth week, you should be ready to offer the public an informational meeting and a newspaper human interest article. The distinct advantage of a "tickler system" is that the management of it can be delegated to someone else (an interested clerical person or perhaps a member of your recruitment committee) thus freeing you to devote more time to the overall coordination of the project. Keep in mind that this system is an example only. You should develop your own based upon your selected recruitment modes.

A word about orientation (informational) meetings--the purpose is to orient the participants not to train them! (See Public Presentation outline.)

It may be particularly advantageous to have an experienced foster care provider present at the program. Give out written materials (Job Description, pamphlets, etc.) at the end of the session to those interested. Be sure to inform them exactly how to contact the appropriate person within your agency for further information or to make an application to become an adult foster care provider!

Good luck in your efforts -

Remember:
Patience
and
Persistence
Leads to
Providers!

Resource: The Road to Quality Foster Care: A Comprehensive Recruitment Manual. Susan Meltsner, MSW, American Foster Care Resources, Inc., King George, Virginia, 1984. (Cost about $35.00, order information at the end of Recruitment chapter.)

Exhibit O

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the matter of Proposed
Rules of the Department of
Human Services governing the
Administration of Adult Foster
Care Services and Licensure of
Adult Foster Homes, parts 9555.5105
to 9555.6265.

FISCAL NOTE

As required by Minnesota Statutes, section 14, a fiscal note assessing the net expenditure of public monies over the next two years by state and local agencies has been prepared. Chapter 14 requires not only a statement of net cost, but also inclusion of the method for arriving at that net cost

The total net cost to state and local agencies over the next two years as a result of the above proposed rules is estimated to be $98,453.13.

DHS Licensing Division Costs

The estimated additional cost to the Department's Licensing Division as a result of the addition of 550 licenses in year one and another 55 in year two for a total of 605 new licenses, is $17,617.48.

The new foster home licenses will become part of the licensing divisions family system network comprised of 4,608 family foster care (child) licenses and 9,574 family and group family day care licenses which are issued annually. The total number of family system licenses are estimated to increase from 14,182 to 14,787 annually as a result of the addition of the proposed adult foster home standards.

The licensing division issued a total of 16,389 licenses as of June 1986.

To arrive at estimated additional personnel costs, a cost per license of $5.0145 for personnel was determined by taking 30 percent of the family system supervisor's time, 100 percent of the family system administrator's time, 70 percent of a clerical support person's time, 10 percent of the licensing director's time and five percent of the assistant commissioner's time. The estimate includes salaries, plus 20 percent fringe. The cost per license was determined by dividing the total family system personel costs by the total number of licenses within that system. The estimated additional personel costs to the licensing division are:

YEAR ONE	YEAR TWO	TOTAL
$ 2,757.97	$ 3,309.51	$6,067.48

Additional operational costs for the licensing division were estimated based on 1986 expenditures except for space which is based on projected fiscal year 1987/88 costs. The operational costs included are:

Printing	$ 16,000	
Mail/phone/postage	22,000	
Data processing	7,000	
Supplies	4,000	
Office space	60,000	(based on 5,000 square feet at $12/ft)
Legal fees	55,000	
Total	$164,000	

The annual operational cost per license ($164,000 divided by 16,384 licenses) was estimated at $10 per license. The annual additional operational expenses to the DHS licensing division from additional adult foster care licenses is estimated at:

YEAR ONE	YEAR TWO	TOTAL
$ 5,500	$ 6,050	$11,550

Total additional costs to DHS licensing division as a result of adding 550 adult foster homes to the family care system in year one and 55 more in year two:

	YEAR ONE	YEAR TWO	TOTAL
Personel	$ 2,757.97	$3,309.51	$ 6,067.48
Operations	5,500.00	6,050.00	11,550.00
TOTAL	$ 8,257.97	$9,359.51	$17,617.48

Fire inspection costs

State and local fire marshals will make an initial inspection of the homes to determine compliance with the Minnesota Uniform Fire Code's standards for a resiidential occupancy. The state fire marshal inspects homes in areas not covered by local fire authorities. Ramsey County has routinely required an initial inspection as part of their certification standards. Ramsey also requires annual inspections. The cost for inspections ranged from $29.19 per inspection in Ramsey County to $148.69 for a state fire marshal inspection.

The department estimates that 255 of the 550 currently certified homes have had an initial inspection and 90 of these 255 are inspected annually. The state fire marshal reported making 80 inspections of adult foster homes in the last fiscal year.

The Department thus estimates that 400 facilities will need an initial fire inspection the first year and another 55 facilities will need an initial inspection the second year.

Presuming that the state fire marshal will be conducting 50 percent of all inspections, the department estimates the following net cost increases to state and local fire authorities as a result of the proposed rules:

	YEAR ONE	YEAR TWO	TOTAL
Local	$ 5,838	$ 875.70 (30 homes)	$ 6,713.70
State	29,738	3,717.25 (25 homes)....	$33,455.25
TOTAL	$35,576	$4,592.95.(55 homes)	$40,168.95

Local agency licensure assistance costs

The department surveyed counties to determine net costs as a result of the change from local agency certification of homes under parts 9555.6100 to 9555.6400 to state licensure with local agency assistance under parts 9555.5105 to 9555.6265. The department surveyed a large urban county currently certifying homes with certification standards comparable to or in some cases higher than those proposed (Ramsey County) and four non metro area counties (Pennington, Morrison, Nicollet and Ottertail).

The local agencies were asked to assess their total certification costs and compare them against the licensure costs based on the proposed rule standards. The survey is contained in Exhibit X.

The cost for a certifying worker ranged from 3.5 to 12 hours per home with an average of 6.9 hours. The hourly cost ranged from $9.93 to $21.04 with an average of $15.04.

Administrative/supervisory time ranged from .25 to one hour per home with an average of .62 hours per residence. Hourly costs for supervisory time ranged from $13.86 to $27.89 an hour with an average of $19.95.

Clerical support time at the county level ranged from .25 to two hours with an average of 1.45 hours per residence. Hourly costs for clerical support time ranged from $5.97 to $18.36 per hour with an average of $9.85.

Other common identified costs attributable to licensing assistance were travel time at an average of $40 ($10 in the metro area and $100 in rural counties) and training/orientation costs which averaged out at $60. (Twenty eight percent of the adult foster homes currently certified are in the seven county metropolitan area with the remainder in rural counties.)

The total cost of currently certifying an adult foster home ranged from a high estimate of $346.97 for Ramsey County to $57.23 for Nicollet with an average of $197.13. The overall average additional licensure costs closely matched those estimated by Pennington County.

As to projected increases in costs to the local agency as a result of the proposed rule parts, the counties surveyed projected an average increase of 29 percent with increases ranging from five to 60 percent. The smallest increase was in Ramsey County and the largest in Nicollet which estimated certification costs at $57 per home.

Using the average of $197.13 and projecting a 29 percent increase, the department estimates an average increase of $57.16 per home. Using 550 as the base for the first year and projecting a 10 percent increase in adult foster home licenses in year two, the following is the estimated increase in costs to local agencies as a result of the proposed rule parts 9555.6105 to 9555.6265:

Year one.	Year two	Total
$31,438	$3,143	$34,581

Net change in base rate paid by county board for adult foster care

The counties surveyed were asked if there would likely be a change in the base rate paid to providers of adult foster care. All but Ramsey County indicated either "no change" or that they have made no decision on this issue. Ramsey County projected a four percent increase based on a "change in the cost of living." Because a change in rate due to a change in the cost of living index is not a change in rate as a result of the proposed rule provisions, the department does not forsee a net increase in costs in this area in excess of those increases already allowed by statute.

Net change in cost of providing social services to adults in foster care

For those counties providing adult foster care services to persons within their county, the department survey requested an estimate of any changes in the cost of providing social services as a result of proposed rule parts 9555.5105 to 9555.5705.

Under adopted rule parts 9555.5100 to 9555.5400, social worker time ranged from four to 40 hours annually per client with Ramsey County on the high end and Pennington County low. The average time estimate was 16 hours. The hourly cost ranged from $10.41 to $21.02 with the average at $16.37.

Administrative/supervisor time ranged from one to 20 hours per client with an average of 6.8 hours and the hourly rate ranged from $13.86 to $27.89 per hour with an average of $19.94.

Clerical support time estimates varied widely from one to 48 hours per client with an average of 13 while the hourly rate ranged from $5.97 to $18.36 with an average of $9.85.

The average travel cost was $29 per client annually.

Total social service costs per year under the adopted social service rule ranged from $1324.29 per client in Ramsey County to $92 in Pennington County. The average was $559.62. The overall average cost most closely matched that projected by Morrison county at $557.30.

As to projected increases in costs to counties as a result of the proposed rule parts, the counties surveyed projected an increase range of zero to 29 percent with an average of 13 percent. The largest increases were projected by Pennington County which estimated current annual social service costs to persons seeking foster care at $92 per year. Nicollet County did not project any appreciable increase and Ramsey estimated a five percent increase.

The department's Adult Foster Home Survey (Exhibit V.) estimates a total of 825 adults in foster care. Projecting a 10 percent increase in the number of adults seeking placement in foster care and estimating that 50 percent of those applying are persons with mental retardation or a related condition who already are mandated to have case management and social service assessments under parts 9525.0015 to 9525.0165, the department estimates that 83 adults will seek adult foster home placement within the next two years and of that number 42 will elicit a modest increase in costs for some service agencies

Year one	Year two	TOTAL
$3,042.85	$3,042.85	$6,085.70

TOTAL NET FISCAL COSTS

	YEAR ONE	YEAR TWO	TOTAL
Licensing Div	$ 8,257.97	$ 9,359.51	$ 17,617.48
Fire marshal	35,576.00	4,592.95	40,168.95
Local agency	31,438.00	3,143.00	34,581.00
Service agency	3,042.85	3,042.85	6,085.70
TOTAL	$78,314.82	$20,138.31	$ 98,453.13

Exhibit P

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARING

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, Parts 9555.5105 to 9555.6265

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

IT IS ORDERED this 15th day of Sept., 1986, that a Notice of Intent to Adopt Rules Without a 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

Exhibit P

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARING

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265

ORDER FOR HEARING

IT IS ORDERED THIS 15th of Sept, 1986, that a public hearing on the proposed rules captioned above be held in the Veteran's Administration Medical Center, Building 8, Government Site, St. Cloud, Minnesota 55105 on November 13, 1986. (Building 8 may be reached from Division Street in St. Cloud by going north .9 of a mile on 33rd Avenue North, then west on 8th Street North .2 of a mile to the hospital entrance. Signs within the hospital grounds will direct you to Building 8.) The hearing will commence at 9 a.m. and continue until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be given to all persons who have registered their names with the 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

Exhibit Q

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veteran's Administration Medical Center, Building 8, Government Site, St. Cloud, Minnesota 55105, on November 13, 1986. (Building 8 may be reached from Division Street in St. Cloud by going north .9 of a mile on 33rd Avenue North, then west on 8th Street North .2 of one mile to the hospital entrance. Signs within the hospital grounds will direct you to Building 8.) The hearing will commence at 9 a.m. and continue until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to , Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341- , either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the Department and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the Department may indicate in writing whether there are amendments suggested by other persons which the Department is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of

the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9555.5015 to 9555.6265 govern the delivery and administration of foster care services to persons who are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

Part 9555.5105 defines terms that are used throughout parts 9555.5105 to 9555.6265.

Part 9555.5205 indicates that parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to prospective residents by the county board.

Part 9555.5305 indicates the purpose is to ensure proper assessment and notification of the availability of services.

Parts 9555.5405, 9555.5415, 9555.5505, 9555.5605, and 9555.5705 establish standards for foster home development, licensing assistance from the local agency, local agency orientation and training assistance, the assessment process and provision of adult foster care services to residents in adult foster homes.

Parts 9555.6105 to 9555.6265 specify the licensure standards for foster home operators and the licensing process for applicants. These parts set standards for the applicability and purpose of licensing, the application process, criteria and procedures for the study of the applicant and inspection of the residence, variances, negative licensing actions, resident's records, capacity limits, individual resident placement agreements, reporting, training, physical environment, health, water and food, program, resident records, resident rights, and cash resource assistance.

The authority to adopt the proposed rules is contained in Minnesota Statutes, Chapter 256E and sections 245.781 to 245.812.

The fiscal note prepared by the Department (Exhibit 0) estimates that the proposed rules will require less than $100,000 in increased spending from state and local agencies over the next two years.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Gwen Wildermuth, Social Services Division, Fourth Floor, Centennial Office Building, 658 Cedar, St. Paul, Minnesota, 55155, 612/296-0311.

A copy of the proposed rule may be viewed at the Department and at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Gwen Wildermuth.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

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



Dated: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

SFTH/1.0

Exhibit V

ADULT FOSTER HOME SURVEY

RECEIVED
SEP 16 1986
ADMINISTRATIVE HEARINGS



MINNESOTA DEPARTMENT
OF HUMAN SERVICES

1985

ADULT FOSTER HOME SURVEY
1985

In the summer of 1985 a survey was completed on Adult Foster Home (AFH) development in Minnesota. The survey was done to gather information on program growth, to determine how counties were using adult foster homes now and how they planned to use them in the future, to look at barriers, and to determine reimbursement patterns. This information will be used to develop Department positions, policies, and technical assistance to encourage the expansion of the AFH program.

A similar survey was completed in 1979 and data from that survey will be included for comparison purposes where appropriate.

RESPONSES

	1979	1985
Total number of counties responding to survey	68	77
Total number of AFHs reported	411	546
Number of counties with at least one AFH	40	60

NUMBER OF ADULTS IN FOSTER CARE - 825

This number represents adults in foster care at the time the survey was taken.

OPENINGS AND CLOSINGS WITHIN THE LAST YEAR

	1979	1985
AFHs opened last year	104	122
AFHs closed last year	85	55

RATE INFORMATION

- Average rate per month is $387.
  In 1979 the most frequently occurring rate was $300 per month.
- Number of counties with "difficulty of care rates" is 34.

AGENCY STAFFING OF ADULT FOSTER HOME CERTIFICATION

	1979	1985
Full time adult certifying worker	2	3
Combined with adult services case load	18	15
Combined with licensing functions	14	28
Area worker serving more than one county[1]	1	8
Other combinations	N/A	19

[1]Three area workers were identified for Big Stone, Chippewa, and Swift Counties; for Lincoln, Lyon, and Murray Counties; and for Nobles and Rock Counties.

RECRUITMENT TECHNIQUES

	# of Counties
Newspaper advertisements	15
Newspaper articles	7
"Word-of-mouth"	4
Slide presentation	4
Church bulletins	3
Radio programs	3
Booth at shopping center	2
Radio public service announcements	2
Television public service announcements	2
Flyer in paycheck envelope	2
County fair booth	1
Handout brochures	1
Area and professional newspapers	1
Requests for proposals	1
Identify and contact potential providers	1
Monthly information meeting	1
Applied for grant to get recruitment funds	1

Comment: No "surefire" recruitment techniques were identified. Most counties who had a major commitment to recruitment used several techniques so that the public would be exposed to the idea in several ways. A number of counties mentioned "moderate" success with newspaper advertisements while a few stated they had no results. Counties mentioning "word-of-mouth" as a technique, believed it was one of the best techniques. Newspaper articles were cited as being "fairly successful" in recruitment and also in providing information to the public in general.

Number of counties reporting active recruitment within the previous year - 20.

IDENTIFICATION OF MOST OFTEN PLACED CLIENT[2]

	# of Counties
Mentally retarded	44
Mentally ill	9
Frail elderly	17
Multiply handicapped	3

[2]Some counties selected more than one catagory.

IDENTIFICATION OF MOST DIFFICULT CLIENT TO PLACE[3]

	# of Counties
Mentally retarded	6
Mentally ill	33
Frail elderly	2
Multiply handicapped	33
Behavior problem/irregular sleepers	1

[3]Some counties selected more than one catagory.

REASONS FOR PLACEMENT RANKED

1 - Not able to maintain home.
2 - In need of protection.
3 - Pre-independent living.
4 - Post-state hospital.
5 - Post-community hospitalization.
6 - Post-treatment program.
7 - Respite care.
8 - Cannot live alone in winter.

Other reasons listed include: "mentally retarded client turning 18 years of age," "the need to live near sheltered workshop," and "in need of supervision."

PREDOMINATE PROVIDER AGE CATAGORY[4]

	# of Counties
18 - 35 years	2
36 - 50 years	21
51 - 65 years	35
66 + years	4

[4]Two counties listed two catagories.

NUMBER OF HOURS OF ORIENTATION GIVEN TO AFH PROVIDERS

	# of Counties
1 hour	2
2 hours	6
2 1/2 hours	2
3 hours	6
4 hours	10
5 hours	1
6 hours	4
8 hours	1
12 hours	1
Total	33

REQUIRED NUMBER OF TRAINING HOURS PER YEAR

	# of Counties
6 hours	7
8 hours	1
12 hours	13
Total	21

LIABILITY INSURANCE FOR AFHs

Most counties have experienced no problems to date. The counties who have had problems indicate the following actions by insurance carriers:

- Refusal to provide liability on residents.
- Refusal to issue homeowner's policy because of being an AFH.
- Cancellation of homeowner's policy because of being an AFH.
- Increased deductibles.
- Charge of up to $1,000 for a "business pursuits" rider on homeowner's policy.

IDENTIFICATION OF BARRIERS TO AFH DEVELOPMENT

	# of Counties
Limited staff time	22
Limited time for recruitment	5
Low reimbursement rate	4
Financial problems in placing clients/system does not guarantee payment	4
Lack of rule leaving county vulnerable	4
Lack of qualified providers for special needs clients	3
Lack of respite for providers	3
Family attitudes about a member living with another "family"	3
Lack of interest on part of the public	3
Lack of interested families	3
Funding for recruitment program visibility	3
Lack of quality providers	3
Focus of agency delivery system on child foster care	1
Lack of support services for providers	1
Program unknown	1
Finding insurance carriers	1
Nursing home bias	1
Lack of need	1
Limited time to train providers	1
Lack of time to effectively evaluate who is qualified to provide care and level and type of involvement needed for retention of foster homes	1
Prefers relative care to program development in county	1
Lack of potential providers not motivated by money	1

INNOVATIONS AND INTERESTING AFH PROGRAM IDEAS

A group is looking into AFHs to provide services to deaf-blind population. Supportive Living Arrangements (SLAs) in AFHs will be developed. (Blue Earth)

One home functioned as a chemical dependency 3/4 way home. The provider had nine years of sobriety and is fully aware of chemical dependency resources. (Dakota)

One AFH is certified specifically to take an adult recovering alcoholic. The AFH provider is a recovering alcoholic. (Goodhue)

- Mentally ill demonstration project (designed to determine if increased training and intensive support services to providers can assist adult foster homes to better serve mentally ill clients).
- Parent-child placements.
- Chemical dependency placements.

- Pre- and post-residential treatment placements.
- Crisis homes.
- Support group for providers.
- Use of adult foster homes for teen moms. (Hennepin)

AFHS used for patients coming out of the hospital who cannot care for themselves but who do not need to be in a nursing home - short-term. (Hubbard)

Safe homes for battered women. (Itasca)

SLAs in AFHs, and respite care. (Meeker)

Recently certified home for elderly will allow residents to bring own furniture or treasured objects. (Pennington)

Share training sessions for adult foster care with child foster care. (Pope)

Development of an emergency four-bed shelter, SLAs in AFHs. (Ramsey)

One placement where an AFH is a parent-support home. As a result of neglect, a mother and child were placed in the home to learn parenting skills. (Wadena)

Two Rule 14 crisis homes for adults. (Washington)

SLA in AFHs, in-home support, respite care. (Yellow Medicine)

NEW DIRECTIONS IN ADULT FOSTER HOME PROGRAMS

	# of Counties
Increase in use of AFHs homes for elderly due to nursing home pre-admission screening.	14
More AFHs for mentally retarded population	11
More AFHs for mentally ill population	9
More emphasis on placing mentally retarded clients in SLA-AFHs under the Medical Assistance Waiver	6
Need for respite care and emergency back-up for providers	3
Increased training for providers	3
Respite care	2
Adult shelters	2
More skilled provision of services	1
More creative placements	1
A trend toward specialized care by semi-professionals	1
More homes for the multiply handicapped	1
AFHs will be used for those who come from hospitals rather than nursing homes	1
Making adult foster care a "real" alternative to other residential placements	1
The AFH program will take on the importance of the child foster home program	1
More homes for the multiply handicapped	1
More homes for the physically handicapped	1
Developing more AFHs so that some current residents of board and lodging facilities would have the option of a family living situation from which they could benefit	1
More post-hospital, post-group home placements	1
If we can provide enough pay and assistance in arranging regular time off, we will be able to recruit sufficient and capable people (who will make it a career and develop a certain amount of professionalism) to make this a viable program	1
A trend toward increasing the quality of current homes	1

Analysis and Conclusions

The number of AFHs has increased from 411 in 1979 to 546 in 1985, or a 33 percent increase in the six year period. During that time the number of counties with at least one AFH increased from 40 to 60. The number of new AFHs was increased and the number of AFH closings were fewer in 1985 when compared in 1979. Ramsey and Hennepin combined had 31 percent of the AFHs in the state in 1979, but in 1985 that percent was reduced to 28 percent.

The rate of reimbursement appears to have risen since 1979 and the average rate is now $387 per month as opposed to the most frequent rate of $300 per month in 1979. The range of base rates per month is $244 to $545. In 1979, only 18 counties had a scaled reimbursement rate which was increased to 34 in 1985. The top end of the reimbursement rates are Hennepin with a maximum rate of $939, Ramsey with a maximum of $907, and Stearns with a maximum of $800. Difficulty of care scales vary greatly. Some counties use the child foster care scale with modifications. A number of counties use three dimensions to measure care which are: emotional, physical, auxillary or other. Stearns County uses training needs as an indicator on their difficulty of care scale.

Staffing the adult foster home certifying position has not changed remarkably since 1979. The most frequent staffing is the function combined with an adult services case load or combined with other agency licensing functions. There appears to be a small trend toward using an area certifying worker in rural areas. This is an exciting indication since "lack of staff time" was named as a frequent barrier to program development and this may provide a solution in some areas of the state.

The most frequent number given for hours of orientation for new foster homes was 4 hours with a range of 1 hour to 12 hours. Only 21 counties require training each year, the most frequent number is 12 hours. The range for required hours was 6 to 12 hours. AFH providers fall predominately within the age range of 36 to 65 years of age.

Surprisingly, only 20 counties indicated an active recruitment program within the previous year. This again, corresponding to "lack of staff time" as a barrier to program development. Of the counties who did recruiting, a wide range of recruitment modes were employed. Newspaper advertisements, newspaper articles, and "word-of-mouth" were named as the most successful modes. Counties using only one mode, no matter which one, had the least success with recruitment.

Barriers to program development center largely in two areas: 1) Lack of staff time and funds for recruitment and training of AFHs resulting in lack of public knowledge about and interest in the program; 2) Low reimbursement combined with a complex funding system. The need for a revised Rule 51 was also identified as a current barrier.

The most frequent placement is mentally retarded clients. The two categories of clients listed as most difficult to place were the mentally ill and multiply handicapped. The two most frequent reasons for placement were: 1) "Not able to maintain a home"; and 2) "In need of protection."

Innovations in AFH usage have increased greatly since 1979. Chemical dependency placements; short-term, post-hospital use for elderly clients; emergency shelters; battered women's shelters; placements of young parents and their children; crisis homes (Rule 14); respite care; and the development of SLAs in AFHs were all identified as new program ideas.

New directions anticipated include the need for more AFHs for the elderly, mentally retarded, and mentally ill populations. The Medical Assistance waivered services have only begun to impact AFH development. Providers will be required to give more specialized care in the future and this will require more training, development of respite care, and back-up emergency systems for AFHs. More creative use of AFHs with the multiply handicapped and physically handicapped, for shelter, and for respite are also seen as future developments.

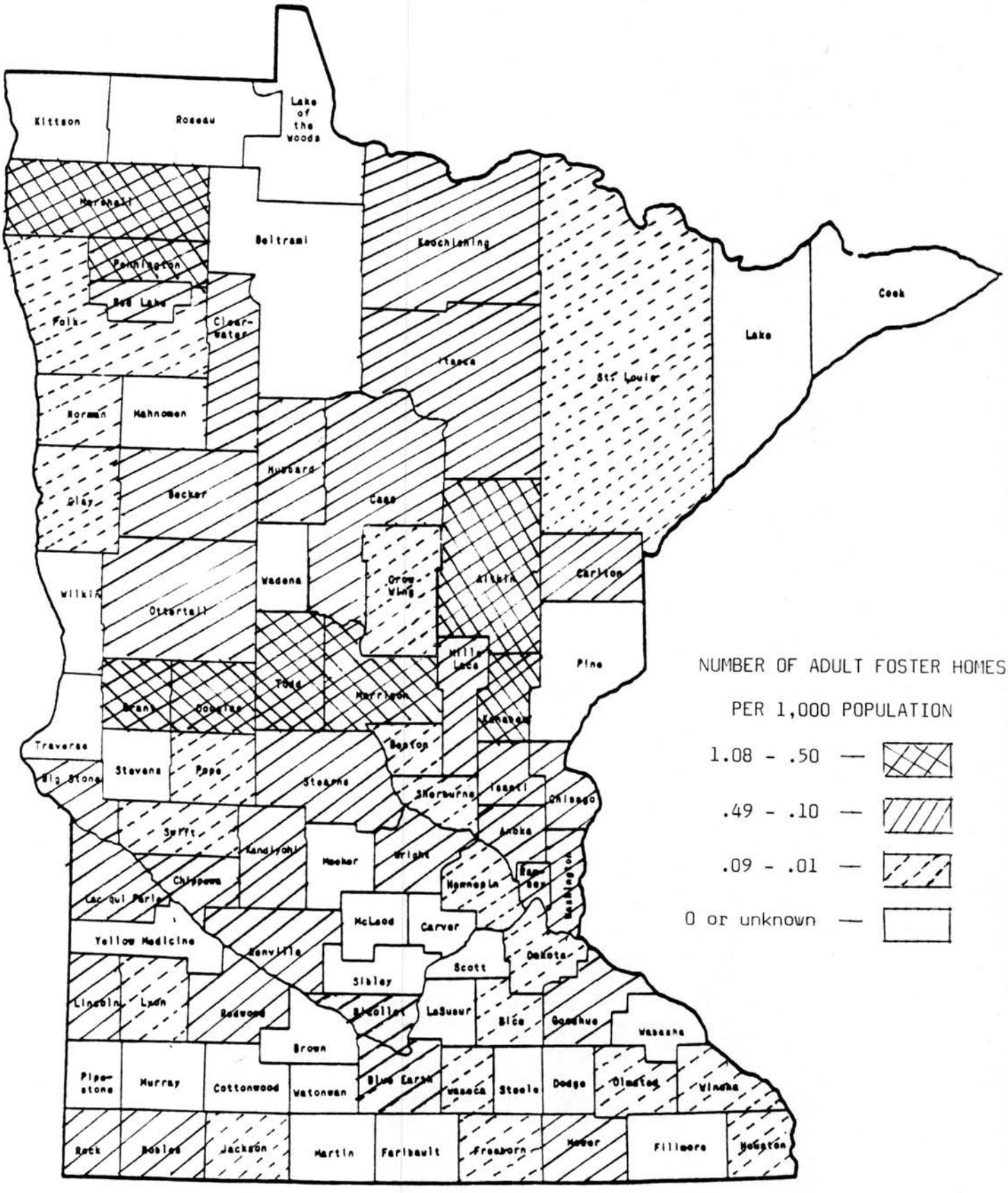
While AFH programs are often not an agency priority as far as expenditures and staff time are concerned, indications are that with the number and variety of AFHs they will continue to grow from pressure to develop new and more creative adult community placements that are cost effective. The insurance situation certainly could prove to hinder further program development. The revised Rule 51 requiring AFH licensure will provide a better structure for developing quality homes and give direction to the program. Reimbursement is low in a number of counties and there is often either no difficulty of care rate or one that has not identified appropriate indicators for reimbursement. The entire system for reimbursement must be streamlined and must adequately compensate providers to encourage the growth of this important resource for sheltered adult living.

SFT/40

ADULT FOSTER HOMES

BY COUNTY - 1985

DPW-778
09-7-15



NUMBER OF ADULT FOSTER HOMES

PER 1,000 POPULATION

1.08 - .50 —

.49 - .10 —

.09 - .01 —

0 or unknown —

I. COUNTY BY COUNTY STATISTICAL BREAKDOWN -- QUESTIONS 1, 2, 3, 8, (4 & 5), 7, 10, 11, 12, 13

County	County seat	Population	# of homes 1985 / # of homes 1979	Rate AFH per 1,000 Population	Homes opened last year	Homes closed last year	# in adult foster care	Low rate High rate	Assignment of certifying function	Most frequent placement	Most difficult placement	Age of providers	# of hours of orientation	Training requirements per yr.	Recruitment in last year
Aitkin	Aitkin	14,000	13/?	.93	3	0	25	441/0	Div. caseload	MR	MR/MH	C	6	12	yes
Anoka	Anoka	207,000	33/20	.16	8	12	37	425/600+	C	MR/MI	MI	B	4	0	yes
Becker	Detroit Lakes	31,000	15/12	.48	3	1	25	500/0	C	MR/MH	MI	B & C	0	6	yes
Beltrami	Bemidji	33,000	/9	0											
Benton	Foley	26,000	2/1	.08	0	0	4	300/350	C	MI	MH	C	4	12	yes
Big Stone	Ortonville	8,000	4/2	.5	1	0	4	400/460	D	MI	MH	B	4	6	no
Blue Earth	Mankato	53,000	20/30	.38	1	2	54	418/543	B	MR	MI/MH	D	3	6	no
Brown	New Ulm	29,000	/2	0											
Carlton	Cloquet	29,000	9/9	.31	1	1	19	400/400	B	MR	MH	C	0	0	no
Carver	Chaska	39,000	0/0	0	0	0	0	0/0	NA	NA	MI	NA	NA	NA	no
Cass	Walker	21,000	5/5	.24	0	0	6	400/500	C	MR	MH	B	2	0	no
Chippewa	Montevideo	15,000	2/8	.13	0	2	2	400/0	D	MR	MI	C	6	12	no
Chisago	Center City	27,000	3/1	.11	1	1	6	400/500	C	MR	MI	B	2	12	no
Clay	Moorhead	49,000	4/0	.08	5	2	4	400/0	C	MR	MR	A	3	0	no
Clearwater	Bagley	9,000	2/0	.22	1	0	5	565/0	B	FE	MH	C	4	0	no
Cook	Grand Marais	4,000	/1	0											
Cottonwood	Windom	14,000	/0	0											
Crow Wing	Brainerd	42,000	3/2	.07	0	1	3	300/350	C	MR	MH	C	0	0	yes
Dakota	So. St. Paul	208,000	15/0	.07	10	4	12	$13-day/in process of development	C	MR	MI/MH	B	3	12	yes
Dodge	Mantorville	15,000	0/0	0	0	0	0	0/0	B	pot. FE	pot.MR/MI	pot.B	?	12	no

County	County seat	Population	# of homes 1985 / # of homes 1979	Rate AFH per 1,000 Population	Homes opened last year	Homes closed last year	# in adult foster care	Low rate High rate rate varies	Assignment of certifying function	Most frequent placement	Most difficult placement	Age of providers	# of hours of orientation	Training requirements per yr.	Recruitment in last year
Douglas	Alexandria	30,000	4/5	.13	0	1	2	varies	C	MR	MI/MH	C	0	0	no
Faribault	Blue Earth	19,000	0/0	0	0	0	0	NA/NA	0	NA	NA	NA	NA	NA	yes
Fillmore	Preston	22,000	/0	0											
Freeborn	Albert Lea	35,000	2/6	.06	0	0	6	400/0	C	FE	MR/MI/MH	C	0	0	no
Goodhue	Red Wing	39,000	6/5	.15	6	0	5	276/350	C	MR	MH	B	3	12	no
Grant	Elbow Lake	7,000	4/4	.57	0	0	3	350/400	C	MR	MH	C	12	12	no
Hennepin	Minneapolis	1045,000	63/45	.06	10	5	83	441/939	A	MR	MI/MH	C	5	0	yes
Houston	Caledonia	19,000	1/0	.05	0	0	3	375/0	B	MR	MI	C	4	0	yes
Hubbard	Park Rapids	15,000	3/0	.20	0	1	4	400/575	E	MR	MH	B	2	0	no
Isanti	Cambridge	25,000	6/7	.24	0	0	4	350/less than NHC	B	MR/MI/FE	MI	C	0	0	no
Itasca	Grand Rapids	45,000	7/8	.16	1	1	8	425/0	B	MR	MH	C	0	0	no
Jackson	Jackson	14,000	1/1	.07	0	0	2	450/0	E	MI	NA	B	0	0	no
Kanabec	Mora	12,000	7/7	.58	2	1	14	340/0	E	FE	MI/MH	C	3-4	0	no
Kandiyohi	Willmar	39,000	13/10	.33	3	2	25	300/0	E	MR	MH	C	1 Informal	0	0
Kittson	Hallock	7,000	0/0	0	0	0	0	350/470	E	0	MI	0	NA	NA	yes
Koochiching	Intern. Falls	17,000	2/2	.12	1	0	4	SS & SSI	B	MR	MR	C	2	0	no
Lac Qui Parle	Madison	10,000	3/0	.30	1	0	2	350/430	B/C	MR	MH	A	0	0	no
Lake	Two Harbors	13,000	/?	0											
Lake of the Woods	Baudette	4,000	0/0	0	0	0	0	NA/NA	0	NA	NA	NA	NA	NA	no
LeSueur	LeCenter	24,000	0/0	0	0	0	0	NA/NA	C	MR	MI	NA	NA	NA	no
Lincoln	Ivanhoe	8,000	1/?	.13	0	0	0	350/400	C/D	FE	MI	C	4	0	no

County	County seat	Population	# of homes 1985 / # of homes 1979	Rate AFH per 1,000 Population	Homes opened last year	Homes closed last year	# in adult foster care	Low rate High rate	Assignment of certifying function	Most frequent placement	Most difficult placement	Age of providers	# of hours of orientation	Training requirements per yr.	Recruitment in last year
Lyon	Marshall	26,000	4/?	.15	1	1	0	350/400	C/D	FE	MI	C	4	0	no
McLeod	Mahnomen	30,000	/3	0								NA	NA	NA	yes
Mahnomen	Mahnomen	6,000	0/?	0	0	0	0	0/0	B	E	MR	NA	NA	NA	yes
Marshall	Warren	13,000	14/?	1.08	0	1	1	350/450	C	MR	MH	B	6	0	no
Martin	Fairmont	25,000	0/0	0	0	0	0	NA	None	NA	NA	NA	NA	NA	NA
Meeker	Litchfield	21,000	0/0	0	0	0	0	NA/NA	C & MR Caseload	pot.MR	NA	NA	0	12	yes
Mille Lacs	Milaca	18,000	7/8	.39	2	0	6	350/0	C	FE	MI	C	2	0	no
Morrison	Litttle Falls	30,000	16/10	.53	5	1	18	400/500	C	MR	E	C & D	0	0	no
Mower	Austin	40,000	7/11	.18	1	0	10	487/no set rate	E	NA	MH	C	0	0	no
Murray	Slayton	11,000	2/1	.18	0	0	1	350/400	C/D	FE	MI	C	4	0	no
Nicollet	St. Peter	28,000	9/7	.32	1	1	23	418/543	B	MR	MI	B	0	6	no
Nobles	Worthington	22,000	3/?	.14	2	0	3	342/495	D	FE	MI/MH	C	0	0	no
Norman	Ada	10,000	2/0	.20	2	0	0	400/550	B/C	E	MH	C	4	8	no
Olmsted	Rocchester	96,000	7/9	.07	0	1	9	250/280	C	MR	MI/MH	D	0	0	no
Otter Tail	Fergus Falls	55,000	26/22	.47	2	0	75 MR's	425/0	C	MR	MI/MH	B	0	0	yes
Pennington	Thief River Falls	14,000	8/3	.57	0	4	21	400/675	E	MR	FE/MH	B	0	0	no
Pine	Sandstone	21,000	/?	0											
Pipestone	Pipestone	11,405	0/0	0	0	0	0	NA/NA	None	NA	NA	NA	NA	NA	no
Polk	Crookston	35,000	1/?	.03	1	1	1	500/0	C	MR/MI/FE	MH	B	0	0	no
Pope	Glenwood	12,000	1/0	.08	0	0	1	650/0	E	FE	MI	A	2	6	yes
Ramsey	St. Paul	457,000	92/83	.2	10	2	170	428/907	A	MR/MI	MH	C	2½	12	yes
Red Lake	Red Lake Falls	5,000	1/0	.2	3	2	0	400/525	E	MR	MR/MI/FE/MH	C	4	6	yes

County	County seat	Population	# of homes 1985 / # of homes 1979	Rate AFH per 1,000 Population	Homes opened last year	Homes closed last year	# in adult foster care	Low rate High rate	Assignment of certifying function	Most frequent placement	Most difficult placement	Age of providers	# of hours of orientation	Training requirements per yr.	Recruitment in last year
Redwood	Redwood Falls	19,000	3/?	.16	0	0	8	342/549	C	MR	MI	D	0	6	yes
Renville	Olivia	20,000	3/?	.15	1	0	3	425/0	B/C	MR/FE	MI	B	0	0	no
Rice	Faribault	47,000	3/?	.06	1	0	3	350/0	B	MR	MI	B	0	0	no
Rock	Luverne	11,000	2/1	.18	0	0	2	400/0	D	equally divided	MH	C	0	0	no
Roseau	Roseau	13,000	/?	0											
St. Louis	Duluth	214,000	16/?	.07	5	2	27	244/414	A	MR	MH	B	0	0	no
Scott	Shakopee	49,000	0/?	0	0	0	0	0/0	C	pot.MR/ME	pot.MI/MH	NA	0	0	no
Sherburne	Elk River	33,000	1/2	.03	0	0	0	380/0	C	MR	MI	B	8	12	yes
Sibley	Gaylord	16,000	0/0	0	0	0	0	0/0	NA	NA	NA	NA	0	0	no
Stearns	St. Cloud	114,000	28/28	.25	9	0	37	350/800	E	MR	MH	C	3	0	no
Steele	Owatonna	30,000	1/?	.03	0	0	0	/?/	C	E	NA	C	0	12	no
Stevens	Morris	11,000	0/0	0	0	0	0	NA/NA	C	none	NA	NA	NA	NA	no
Swift	Benson	13,000	4/3	.31	1	0	0	400/460	D	MI	MI	C	6	12	no
Todd	Long Prairie	26,000	3/6	.12	0	1	3	292.50/660	C	FE	MH	C	0	0	no
Traverse	Wheaton	5,000	/0	0											
Wabasha	Wabasha	19,000	0/0	0	0	0	0	NA/NA	C	NA	NA	NA	NA	NA	no
Wadena	Wadena	14,000	4/2	.29	0	0	2	440/0	C	MR	MI	B	1	0	no
Waseca	Waseca	19,000	1/1	.05	0	0	4	340/0	B/C	FE	MI/MH	C	2	0	no
Washington	Stillwater	121,000	17/8	.14	12	1	20	390/0	C	MR	MI	C	0	12	yes
Watonwan	St. James	12,000	0/0	0	0	0	0	NA/NA	none	NA	NA	NA	NA	NA	NA
Wilkin	Breckenridge	8,000	0/?	0	0	0	0	0/0	B	E	E	0	0	0	0

County	County seat	Population	# of homes 1985 / # of homes 1979	Rate AFH per 1,000 Population	Homes opened last year	Homes closed last year	# in adult foster care	Low rate / High rate	Assignment of certifying function	Most frequent placement	Most difficult placement	Age of providers	# of hours of orientation	Training requirements per yr.	Recruitment in last year
Winona	Winona	46,000	1/?	.02	0	0	0	325/?	B	MR	MI	C	0	0	no
Wright	Buffalo	62,000	6/?	.1	4	0	6	310/0	B	MR	MH	B	0	0	no
Yellow Medicine	Granit Falls	13,000	0/3	0	0	0	0	0/0	B	FE/MH	0	0	0	0	no
Summary			546												

Exhibit W

Department of Human Services
Adult Services
Field Guide to County Social Services Agency Workers

Introduction

Adult services are designed to meet the needs of a variety of adult clients. Some adult services are mandated by Minnesota Statutes; others are in "infant stages of development"; still others are required under Alternative Care Grant program for elderly individuals or the Medical Assistance waiver program for adults with mental retardation. Citizens needing these services represent many living situations, family settings, functional abilities, and goals. The county social worker has the responsibility to work with the adult to develop a composite plan of services that will meet the needs of the person. This field guide provides an outline of adult services county workers may utilize.

Adult clients with disabilities are generally members of the following target populations who are served by county social services agencies: mentally ill, mentally retarded, physically handicapped, chemically dependent and frail elderly. Some adult clients may belong to more than one target population. While there are some services designed for or typically associated with a specific target population, it is helpful to look at the adults' needs holistically and then choose from the range of services available in your county.

The major goals for adult clients are to assist them in being or becoming as self-sufficient as possible, and ensuring protection from abuse or neglect. This includes providing services that assist them in living in the least restrictive environment; that help them function physically, mentally, emotionally, and socially to their greatest capacity; and to ensure their right to income that will meet their basic needs.

Four general areas of client need are: living arrangements, home-based services, programming, and protection to determine these needs and to develop a service plan, an assessment is undertaken.

Assessment: The social worker is responsible for working with the client to design a plan of services that will allow the person to maintain or gain more independence or ensure adequate protection of the person from abuse or neglect. A good assessment of the four major areas is a critical step in the development of the case plan.

It is important to remember that clients' needs will vary. Some will need services in each of these areas; others will need services in only one. Service needs may be of a temporary nature or may be more permanent. Services may be purchased or provided by the social worker. Families or volunteers may assist.

In Attachment A you will find an adult intake assessment form that was developed by staff from county agencies and the Department of Human Services. It is a screening tool that can be used when first meeting a client to help identify general problem areas which will need further or more specialized assessment before determining what services are needed; the tool also will help in determining whether referral of the client to other professionals, such as county nursing services, income maintenance or others, if necessary.

The assessment instrument is "generic" in that it can be used for any adult being considered for or receiving services. You may also use this tool to connect with other delivery systems such as for nursing home preadmission screening or mental illness or chemical dependency pre-petition screening. Use of this instrument is optional.

Service Areas: To repeat, adult services can be broadly separated into four areas. These are: living arrangements, home-based services, programming, and protection. These areas must be addressed together to provide a comprehensive approach to working with clients. At times a client may need only one service or area of services; at other times, several or all.

Each service area is comprised of services which range on a continuum corresponding to the clients' level of need. Clients' needs can fluctuate on these continua over time.

In choosing services to meet needs of adult clients, workers should consider:

1. Availability of specific programs.

2. Payment mechanism.

3. Duration of service delivery.

4. Time frame for service need.

The vendors of services may be many and varied, and meeting these criteria will often require creativity in assembling a package of services for adult clients.

Living Arrangements: Living arrangements can be considered on a continuum from least restrictive to most restrictive (respectively): independent living, share-a-home, supervised or assisted living, adult foster home, group home, intermediate care facilities, skilled nursing home hospital or other institution.

The choice of living arrangement for a client should be determined by the principle of providing the least restrictive and most normal environment, compatible with the client's needs and capabilities. In the process of making a decision, the client and family and/or legal representative should be made aware of all alternatives available to meet the needs of the client. The first alternative, when it is client choice and in the best interest of the client, is to live at home. When appropriate, home-based services should be used to support adults in their own homes before any placement is made.

Adults who may be considered for placement out of the home include:

- Adults unable to live independently due to temporary or permanent limitations (physical, mental, developmental, psychological, or emotional impairments and/or inadequate social skills).

- Mentally disabled or dependent adults who have been discharged from institutions and who need a temporary supportive environment before living independently.

- Adults discharged from hospital care but still requiring some assistance before returning to independent living arrangements. For example, elderly patients discharged from the hospital because of Medicare limitations who need assistance during recuperation but who do not need skilled nursing or rehabilitative services on a 24 hour per day basis.

- Isolated elderly persons who require a more permanent placement because they no longer can manage living alone and have no family to care for them; for example, elderly single persons living alone in inadequate and substandard housing.

- Abused adults requiring a temporary "safe home" or shelter.

Considerations in placement include client characteristics such as personality traits, interests and emotional needs, along with physical needs (accessibility), nutritional needs, and geographical needs to be near family members and services.

Home-Based Services: Home-based services is an array of support services that help clients remain at home or in the least restrictive community setting rather than having to move into restrictive, less independent living arrangements. The purpose of these services is to help family members live together and to assist clients in daily living activities.

This is accomplished by the provision of concrete services in the home setting, to the home itself, and ancillary services to the client. These include:

1. Chore services, such as routine housekeeping tasks, minor household repairs, shopping, lawn care and snow shoveling.

2. Home delivered meals - meals prepared and delivered to a client's home.

3. Money management - teaching a client to develop personal budgets and manage indebtedness; consumer education on food purchasing, credit buying; or actually managing part or all of a client's budget.

4. Transportation - for medical appointment, grocery shopping, etc.

5. Personal care attendant or home health aide services - assisting a client with personal care needs such as bathing and walking.

Adults to be considered for such services include:

- Adults temporarily physically unable to maintain their home and/or undertake daily activities, such as meal preparation and laundry.

- Adults who do not have access to transporation or the ability to transport themselves.
- Adults who are unable to fulfill the managerial aspects of home living.
- Adults unable to attend to their personal care needs.

The worker has the responsibility to clearly define the specific tasks the homemaker, money manager, or chore services person will have to perfom, as determined by the assessment of the client's needs and tied in with the individual case plan for the client. The worker also needs to make sure that the training and experience of the chore person, money manager, or homemaker are matched to the specific tasks they are asked to perform. These individuals should be screened to assure compatability between the provider and the client and to assure that the health, rights, and safety of the client are protected.

When there is a caregiver, home-based services can include respite, which gives temporary relief to the caregiver. This relief should help preserve the family unit, prevent premature institutionalization or reinstitutionalization and help defuse situations assessed to have a high potential for abuse and/or neglect. Respite may involve use of other services such as an adult foster home or adult daycare or bringing in a neighbor to stay with the disabled adult while the caregiver takes time to relax and have free time to meet other obligations or needs.

Typically, respite services help prevent caregiver "burnout" that can lead to the incapacitation of the caregiver. Such burnout or incapacitation of the caregiver means they can no longer care for the disabled adult, and institutionalization becomes necessary for the client.

Certain caregivers may have an especially heavy need for respite, including:

- Those who care for adults with physically, emotionally and/or psychologically demanding needs.
- Those with other substantial family obligations; large families, children.
- Those who face other major stresses, i.e., financial, job, emotional.
- Those who are caring for adults whose disabilities have become increasingly severe, requiring increasingly intensive need for care.

Programming: Programs are structured activities adult clients engage in for a goal-oriented purpose. Programs should be selected on the basis of their potential for maintaining or improving:

1. Living skills and functional abilities of the adult.
2. Interpersonal and behavioral abilities.

3. Physical and health status.

4. Safety.

5. Training and employability.

6. Personal interests and recreation.

There are a variety of assessment tools which the worker may use in determining which program most meets the needs of adult clients; the assessment tool mentioned earlier is often a good screening tool.

The assessment process should include:

- Psychosocial status.
- Functional status, daily living skills and abilities.
- Physical status, including nutritional needs.
- Past history with other programming, including those with other agencies.

Since programs are goal-oriented activities, they should be time-limited and capable of measurement. The several broad categories of programs include:

- Habilitation, such as learning personal care skills or tasks of daily living such as laundry or shopping.
- Rehabilitation, such as treatment for chemical dependency or mental illness or physical injury or disability, or a maintenance program in these areas.
- Training and education, including vocational skills as an education degree.
- The principle behind programming is that the adult is performing activities of daily living, changing behavior through treatment or education, improving functional abilities, learning skills and maximizing their physical condition and employment opportunities.
- When possible, the client should be involved in selecting the long and short range goals of the programming and how those programs fit the case management scheme for that adult. For some clients, programming is intermittent; that is, it occurs at a transitional time in their life. For other adults, the programming is a long-term service, as happens when an adult is progressively deteriorating in health or functional status.

Protection: Another major goal of adult services is protection of vulnerable adults from abuse, neglect, or financial exploitation. County responsibility for assuring protection is required by Minnesota Statutes, section 626.557, and Minnesota Rules, parts 9555.7100 through 9555.7700. Vulnerable adults are those persons 18 and over who:

- Live in licensed facilities, i.e., nursing homes, hospitals, treatment centers for chemical dependency, mental retardation, mental illness, or physical disability; or
- Receive services from licensed facilities, i.e., developmental achievement centers or home health agencies or
- Live in family settings and who would not, by themselves, report abuse or neglect to themselves because of impaired physical or mental functions, or because of emotional status.

County workers are mandated reporters and must report suspected abuse or neglect of any vulnerable adult.

Workers should be familiar with county reporting requirements and timeliness for response to reports of abuse, neglect, or exploitation. Adult protection workers have available to them two types of authority when dealing with protection clients:

- Legal authority; this implies the use of compulsion and includes using existing legal systems, i.e., guardianship, order for protection, and commitment.
- Professional authority; this implies the use of influence based upon position, training, skill, and experience.

Implementing the best case plan for a vulnerable adult will depend on the competency of the client. With a competent client a mix of informal system (family, friends, neighbors), formal system (professionals or agency), and the clients themselves can carry out a protection plan. With an incompetent client, formal or informal systems carry out the case plan after a court has decreed that another person may act on a client's behalf. The case plan should maximize freedom of choice while considering safety, minimizing lifestyle disruption, and providing adequate care.

Workers will want to address the need for ongoing service. The choices are:

- Short-term service or response to request for service.
- Referral to another unit in the county agency.

- Reliance on the informal system to carry out the plan.

- Formal referral to another service agency.

Volunteers: This statement on volunteers is included to encourage their use in enhancing client services. They can play an integral role when integrated with other service provisions. Volunteers provide additional resources to aid clients, provide an additional perspective on clients, and help to extend services by providing services that staff cannot.

Volunteers can be utilized in adult services in all the service areas; however, most commonly they assist in programming and home-based services.

Specifically, volunteers often provide the following services:

Mental Health Aftercare One-to-One - Assist in community readjustment; provide social outlet to avoid placement.

Respite Care - Aid caregiver of homebound by temporary supervision of the client to enable time off for caregiver and adult.

Guardian/Conservator - Handle finances or affairs by court appointment for clients unable to do so themselves.

Friendly Visitor - Provide social companionship and check on well-being of home-bound elderly or mentally retarded adult.

Telephone Friend - Provide phone contact with outside world and check on well-being of home-bound.

Budget Counselor - Provide ongoing assistance to family in budgeting as directed by paid staff (for adult protection families).

Telephone Friend - Provide phone contact with outside world and check on well-being of home-bound.

Budget Counselor - Provide ongoing assistance to family in budgeting as directed by paid staff (for adult protection families).

SJTH-41

ADULT INTAKE ASSESSMENT ATTACHMENT A

I. IDENTIFYING INFORMATION

DATE: _____ TIME: _____

CLIENT NAME: _____
ADDRESS : _____
PHONE : _____
LIVING ARRANGEMENT: _____
BIRTHDATE: _____ SEX: ____ INCOME: ____
MARITAL STATUS _____

11. REFERRAL

TO:

FROM:

PREVIOUS/EXISTING CASE: _____

EXISTING DIAGNOSIS/DISABILITY: _____

REASON FOR CONTACTING/PRESENTING PROBLEM: _____

COMPLETE ASSESSMENT ON REVERSE SIDE

WORKER ASSESSMENT OF CLIENT NEED/RISK: _____

NEED FOR IMMEDIATE INTERVENTION? Explain: _____

CLIENT WILLING TO ACCEPT SERVICES? Explain: _____

SUGGESTED FOLLOW UP:

____ None
____ PrePetition
____ MR Screening
____ PAS/ACG
____ Adult Protection
____ Vulnerable Adult Investigation
____ Guardianship
____ Other

INFORMANT (if other than client)

_____

Phone: _____
Relation to Client: _____
May Source be Identified? _____
Contact: In Office ____ By Phone ____

9. ADDITIONAL INFORMATION

10. INFORMATION FOR COMMUNITY SERVICES (COMPLETED WHEN INFORMATION SYSTEM OF MINNESOTA NECESSARY)

I & R ONLY

REFERRED BY	SPECIAL STUDIES	PROBLEM	PROGRAM	STATUS
				☐ INFO ONLY (03)
SERVICE REQUESTED	REASON UNAVAILABLE	REFERRED TO		☐ INFO & REFERRAL (01)
TELEPHONE NUMBER	IF CHILD, PARENTS NAME			

DATE:

ADULT FUNCTIONAL ASSESSMENT:
(0 = No Information)

RUCTIONS: Using information available or provided at intake, circle or identify client level of functioning on list below. Ratings of "4" or "5" should be included in assessment narrative on front of form, Part 4. Use Comments Section to supply more specific detail of functioning.

COMMENTS:

Activities of Daily Living:

1 - Independent
2 - Some difficulty but has basic skills
3 - Requires some assistance and/or direction to complete
4 - Requires on-going, regular assistance and supervision
5 - Dependent

_ A. Self Care: bathing, grooming, dressing, toileting, eating
_ B. In Home: meal preparation, laundry, housekeeping
_ C. Out of Home: shopping, banking, outside activities

Mobility:

1 - No problem
2 - With some difficulty
3 - With human support
4 - With appliance or W/C
5 - No mobility/bedfast

_ A. Inside

1 - No problem
2 - Some impairment-walks with some difficulty; able to use public transportation
3 - Moderate impairment; uses some appliance; is able to use mobility trans service
4 - Confined to W/C; may need assistance to use mobility transport services
5 - Confined to bed

_ B. Outside

II. Communications:

1 - No problem
2 - Hearing with aid
3 - Loss at communication level
4 - Hears only loud sounds
5 - No function ability

_ A. Hearing

1 - No problem
2 - Some speech impairment
3 - Uses sign language
4 - Uses gestures/some signs
5 - No functional speech

_ B. Speech

1 - No problem/corrected with lenses
2 - Difficulty with print with lenses
3 - Difficulty with obstacles with lenses
4 - Legally blind
5 - No functional vision

_ C. Vision

IV. Health Status:

1 - No problem
2 - Minor health problems; independent in treatment
3 - Moderate health problems requiring regular medical care & some supervision
4 - Serious health problems requiring regular medical & nursing care
5 - Serious medical problems requiring 24-hour care

V. Living Environment:

1 - No problem
2 - Limited accessibility/ isolated location/needs repairs/landlord problems
3 - Unsanitary conditions
4 - Hazardous conditions i.e. severe disrepair, fire or safety hazards
5 - Does not have permanent or stable housing

VI. Family & Social Supports:

1 - Strong, stable supports from family and friends ongoing
2 - Stable supports, regular but periodic
3 - Limited support from family/ friends; occasional/intermittent
4 - No supports or social connections
5 - Detrimental supports

VII. Abuse/Neglect:

1 - No problem
2 - Minimal risk, but services needed
3 - Moderate risk, some elements of abuse/neglect services can be provided without court use
4 - High risk; allegations severe; court intervention probable; strong, timely action needed
5 - Acute risk; life threatening immediate intervention and decision required

VIII. Financial Management:

1 - No problem-manages finances responsibly
2 - Manages money adequately; many need help with taxes, bank
3 - Has difficulty with finances; requires regular, ongoing assistance
4 - Unable to manage finances - someone else must handle for client
5 - Has or needs representative payee, guardian or conservator

IX. Mental Health:

1 - No problem
2 - Minor problems, treated with meds
3 - Moderate problems, needs direction to maintain treatment regime
4 - Confused/withdrawn-needs supervision
5 - Injurious to self or other/ high risk of 24-hour care

X. Chemical Use:

1 - Non-problematic: abstinent or moderate use
2 - Problematic: use sometimes inappropriate
3 - Chemical abuse: inappropriate use linked to life situations or less than one year duration
4 - Chemical dependency: increased tolerance, withdrawl syndrome & loss of control
5 - Chemical dependency with complications: pathological use with physical or psychological complications: at risk of 24-hour care

XI. Intellectual Functioning:

1 - No problem
2 - Makes most own decisions, may require encouragement and direction
3 - Makes independent decisions only in daily living and self care areas; requires periodic supervision and direction
4 - Makes few independent decisions; requires regular, ongoing assistance and supervision
5 - No capacity for decision making due to limited mental capacity, acute MI, chemical abuse or organic brain disorder; high risk of 24-hour care

XII. Employability:

1 - No problem
2 - Out of work force: retired/ disabled
3 - Marginally employed or work training
4 - Unemployed
5 - Not suitable for employment

Exhibit X.
Fiscal Note Survey of
Local Agencies

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
CENTENNIAL OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

Dear

As you are aware, Rule 203 (Adult Foster Care services) and Rule 51 (Licensure of Adult Foster Homes) are in the process of being revised. A part of the process of rule development is to complete a fiscal note outlining net change in costs to county agencies which may result from rule promulgation which is expected this year. We would like to survey your county on four specific areas connected with the fiscal note. They are:

(1) Net change in the cost of licensing an adult foster home versus certifying an adult foster home.

(2) Whether, after rule promulgation, your county intends to increase the adult foster home monthly base rate.

(3) Net change in the cost of providing social services to adults in foster care under the current Rule 203 versus under the proposed, revised Rule 203 (parts 9555.5105 to 9555.5705).

(4) Cost savings related to adult foster home placement due to promulgation of the rule

The draft of the proposed rules are attached for your reference.

The information you provide will be used to estimate the net change in cost as a result of promulgation of these rules on a statewide basis.

Please assist us by completing the attached survey form by May 30, 1986. If you have questions, please call me at 612-296-0311.

Sincerely,

Gwen Wildermuth,
Adult Foster Care Consultant

GW/km
Enc.

AN EQUAL OPPORTUNITY EMPLOYER

County_____

Person Completing Form_____

PART I
Adult Foster Home Licensure Survey

(These questions address only county agency costs)

A. Please estimate the cost of certifying an adult foster home under the current standards of your county based on Rule 51.

1. Cost of certifying worker time to complete certification.

number of hours cost/hour

_____ x _____ = _____

2 Cost of administrative/supervisor time.

number of hours cost/hour

_____ x _____ = _____

3. Cost of clerical support time.

number of hours cost/hour

_____ x _____ = _____

4. Travel cost = _____

5. Other cost (please specify) = _____

_____

_____

_____

Total: _____

B. Please estimate the cost of licensing on adult foster home under the proposed standards in Rule 51.

1. Cost of licensing worker time to complete licensure

number of hours cost/hour

_____ x _____ = _____

2. Cost of administrative/supervisor time

number of hours cost/hour

_____ x _____ = _____

3. Cost of clerical support time

number of hours cost/hour

_____ x _____ = _____

4. Travel cost = _____

5. Other costs (please specify) = _____

_____

_____

_____

TOTAL: _____

C. Estimated cost change with proposed standards

1. Total Cost of Licensing a Home: _____

2. Total Cost of Certifying a Home: _____

Net increase or decrease in county agency's cost per home: _____

PART II
Adult Foster Rate Survey

A. What is the base rate for adult foster homes in your county at the present time?

_____/month

B. After the rule for licensure of adult foster homes is promulgated, does your agency intend to change the base rate of reimbursement for adult foster homes?

Yes ___ No ___

If yes, what is the rate likely to be?

_____/month

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

number of hours cost/hour

_____ x _____ = _____

2. Cost of administrative/supervisor time

number of hours cost/hour

_____ x _____ = _____

3. Cost of clerical support time

number of hours cost/hour

_____ x _____ = _____

4. Travel cost = _____

5. Other cost = (please specify) _____

_____

_____

_____

TOTAL: _____

B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

number of hours cost/hour

_____ x _____ = _____

2. Cost of administrative/supervisor time

number of hours cost/hour

_____ x _____ = _____

3. Cost of clerical support time

number of hours cost/hour

_____ x _____ = _____

4. Travel cost = _____

5. Other cost = (please specify) _____

_____

_____

_____

TOTAL: _____

C Estimate cost change with proposed standards

1. Total Cost of providing Social Services to an adult in foster care under current Rule 203. _____

2. Total Cost of providing Social Services to an adult in foster care under proposed revised Rule 203 (parts 9555.5105 to 9555.5705) _____

3. Net increased or decreased cost to county agencies in providing social services to a resident of an adult foster home. _____

PART IV
Cost Savings Survey

Only ESTIMATES are being requested

A. Do you think the promulgation of the licensure rule for adult foster homes will result in adults <u>for which your county is financially responsible</u> being placed in adult foster homes who would otherwise have to reside in more costly facilities?

1. No ☐, if No, this is the end of the survey.
2. Yes ☐, if Yes go on to B.

B. Please complete this grid as it applies to your county for adults in various facilities. (We will complete columns G, H and I if you wish.)

A	B	C	D	E	F	G	H	I
Facility	Number of Residents Currently	Number of residents who could be placed in foster care in 1986	Number of residents who could be placed in foster care in 1987	Average Cost per resident per year in facility	Average Cost per resident for foster care	Projected Cost Savings per placement (E-F =)	Total Projected Cost Savings per year (C+D x G =)	Percentage of residents who could be in foster care $\frac{(C+D}{B}$ =)
Nursing Homes								
State Hospital								
Board and Care Homes								
Rule 34 Facility								
Rule 36 Facility								
Board & Lodging Facility								
Other (Identify)								

Thank you.

Please return to:

Gwen Wildermuth
Department of Human Services
4th floor Centennial Office Building
St. Paul, MN 55155

County Pennington

Person Completing Form Gary Erickson (218) 681-2880

PART I
Adult Foster Home Licensure Survey

(These questions address only county agency costs)

A. Please estimate the cost of certifying an adult foster home under the current standards of your county based on Rule 51.

1. Cost of certifying worker time to complete certification.

number of hours × cost/hour =

10 × 14 = 140

2 Cost of administrative/supervisor time.

number of hours × cost/hour =

1 × 18 = 18

3. Cost of clerical support time.

number of hours × cost/hour =

2 × 8 = 16

4. Travel cost = 10

5. Other cost (please specify) =

Total: 184

B. Please **estimate the** cost of licensing on adult foster home under the **proposed standards** in Rule 51.

1. Cost of licensing worker time to complete licensure

number of hours × cost/hour =

15 × 14 = 210

2. Cost of administrative/supervisor time

number of hours × cost/hour =

2 × 18 = 36

RECEIVED
Adult Services

3. Cost of clerical support time

number of hours		cost/hour		
3	×	8	=	24

4. Travel cost = 10

5. Other costs (please specify) = _____

TOTAL: 280

C. Estimated cost change with proposed standards

1. Total Cost of Licensing a Home: 280

2. Total Cost of Certifying a Home: 184

Net ~~increase~~ or decrease in county agency's cost per home: 96 35%

PART II
Adult Foster Rate Survey

A. What is the base rate for adult foster homes in your county at the present time?

423 /month

B. After the rule for licensure of adult foster homes is promulgated, does your agency intend to change the base rate of reimbursement for adult foster homes?

Yes ___ No ✓ The Board may respond to requests but won't initiate rate increases,

If yes, what is the rate likely to be?

_____/month

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

number of hours × cost/hour = 4 × 14 = $56

2. Cost of administrative/supervisor time

number of hours × cost/hour = 1 × 18 = 18

3. Cost of clerical support time

number of hours × cost/hour = 1 × 8 = 8

4. Travel cost = 10

5. Other cost = (please specify)

TOTAL: $92

B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

number of hours × cost/hour = 6 × 14 = 84

2. Cost of administrative/supervisor time

number of hours × cost/hour = 1 × 18 = 18

3. Cost of clerical support time

number of hours		cost/hour		
2	×	8	=	16

4. Travel cost = 10

5. Other cost = (please specify)

TOTAL: 128

C Estimate cost change with proposed standards

1. Total Cost of providing Social Services to an adult in foster care under current Rule 203. $92

2. Total Cost of providing Social Services to an adult in foster care under proposed revised Rule 203 (parts 9555.5105 to 9555.5705) $128

3. Net increased or decreased cost to county agencies in providing social services to a resident of an adult foster home. +36 29%

Kennington, Co.
Jane

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

number of hours × cost/hour = 4 × 14 = 56

2. Cost of administrative/supervisor time

number of hours × cost/hour = 1 × 18 = 18

3. Cost of clerical support time

number of hours × cost/hour = 1 × 8 = 8

4. Travel cost = 10

5. Other cost = (please specify)

TOTAL: 92



B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

number of hours × cost/hour = 6 × 14 = 84

2. Cost of administrative/supervisor time

number of hours × cost/hour = 1 × 18 = 18

3. Cost of clerical support time

number of hours × cost/hour = 16

2 × 8 = 16

4. Travel cost = 10

5. Other cost = (please specify)

TOTAL: 128

C Estimate cost change with proposed standards

1. Total Cost of providing Social Services to an adult in foster care under current Rule 203. 92

2. Total Cost of providing Social Services to an adult in foster care under proposed revised Rule 203 (parts 9555.5105 to 9555.5705) 128

3. Net increased or decreased cost to county agencies in providing social services to a resident of an adult foster home. #36

PART IV
Cost Savings Survey

Only ESTIMATES are being requested

A. Do you think the promulgation of the licensure rule for adult foster homes will result in adults <u>for which your county is financially responsible</u> being placed in adult foster homes who would otherwise have to reside in more costly facilities?

1. No [X], if No, this is the end of the survey.
2. Yes [ ], if Yes go on to B.

Adult FC provides an option but not necessarily cost savings since Pennington county has allowed the rate to equal the 135 bed board and care rate already charg

B. Please complete this grid as it applies to your county for adults in various facilities. (We will complete columns G, H and I if you wish.)

A	B	C	D	E	F	G	H	I
Facility	Number of Residents Currently	Number of residents who could be placed in foster care in 1986	Number of residents who could be placed in foster care in 1987	Average Cost per resident per year in facility	Average Cost per resident for foster care	Projected Cost Savings per placement (E-F =)	Total Projected Cost Savings per year (C+D x G =)	Percentage of residents who could be in foster care ($\frac{C+D}{B}$ =)
Nursing Homes								
State Hospital								
Board and Care Homes								
Rule 34 Facility								
Rule 36 Facility								
Board & Lodging Facility								
Other (Identify)								

County Nicollet (507)

Person Completing Form J. Watson 931-6800

354-874

PART I
Adult Foster Home Licensure Survey

(These questions address only county agency costs)

A. Please estimate the cost of certifying an adult foster home under the current standards of your county based on Rule 51.

1. Cost of certifying worker time to complete certification.

number of hours × cost/hour =

4 × 10.08 = 40.32

2 Cost of administrative/supervisor time.

number of hours × cost/hour =

.5 × 16.98 = 8.49

3. Cost of clerical support time.

number of hours × cost/hour =

1 × 8.42 = 8.42

4. Travel cost =

5. Other cost (please specify) =

Total: 57.23

B. Please estimate the cost of licensing on adult foster home under the proposed standards in Rule 51.

1. Cost of licensing worker time to complete licensure

number of hours × cost/hour =

15 × 10.08 = 151.20

2. Cost of administrative/supervisor time

number of hours × cost/hour =

1 × 16.98 = 16.98

3. Cost of clerical support time

number of hours		cost/hour		
2.5	×	8.42	=	21.05

4. Travel cost = _____

5. Other costs (please specify) = _____

_____

_____

_____

TOTAL: 189.23

C. Estimated cost change with proposed standards

1. Total Cost of Licensing a Home: 189.23

2. Total Cost of Certifying a Home: 57.23

Net increase or decrease in county agency's cost per home: 132.00

606

PART II
Adult Foster Rate Survey

A. What is the base rate for adult foster homes in your county at the present time?

426.00 /month

B. After the rule for licensure of adult foster homes is promulgated, does your agency intend to change the base rate of reimbursement for adult foster homes?

Yes ___ No X

If yes, what is the rate likely to be?

_____/month

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

number of hours × cost/hour = 10 × 10.08 = 100.08

2. Cost of administrative/supervisor time

number of hours × cost/hour = 2 × 16.98 = 23.96

3. Cost of clerical support time

number of hours × cost/hour = 2 × 8.42 = 16.84

4. Travel cost = _____

5. Other cost = (please specify) _____

_____

_____

_____

_____

TOTAL: 140.88

B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

number of hours × cost/hour = 10 × 10.08 = 100.08

2. Cost of administrative/supervisor time

number of hours × cost/hour = 2 × 16.98 = 23.96

3. Cost of clerical support time

number of hours × cost/hour =

2 × 16.98 = 23.96

4. Travel cost = —

5. Other cost = (please specify)

TOTAL: 140.88

C Estimate cost change with proposed standards

1. Total Cost of providing Social Services to an adult in foster care under current Rule 203. 140.88

2. Total Cost of providing Social Services to an adult in foster care under proposed revised Rule 203 (parts 9555.5105 to 9555.5705) 140.88

3. Net increased or decreased cost to county agencies in providing social services to a resident of an adult foster home. — 0 — 0%

Thank you.

Please return to:

Gwen Wildermuth
Department of Human Services
4th floor Centennial Office Building
St. Paul, MN 55155

Gwen,

I sent this much on before vacation. I will send the Part IV next week if you still want.

Jane Watson

PART IV
Cost Savings Survey

Only ESTIMATES are being requested

A. Do you think the promulgation of the licensure rule for adult foster homes will result in adults <u>for which your county is financially responsible</u> being placed in adult foster homes who would otherwise have to reside in more costly facilities?

1. No ☐, if No, this is the end of the survey.
2. Yes ☐, if Yes go on to B.

B. Please complete this grid as it applies to your county for adults in various facilities. (We will complete columns G, H and I if you wish.)

A	B	C	D	E	F	G	H	I
Facility	Number of Residents Currently	Number of residents who could be placed in foster care in 1986	Number of residents who could be placed in foster care in 1987	Average Cost per resident per year in facility	Average Cost per resident for foster care	Projected Cost Savings per placement (E-F =)	Total Projected Cost Savings per year (C+D x G =)	Percentage of residents who could be in foster care ($\frac{C+D}{B}$ =)
Nursing Homes								
State Hospital								
Board and Care Homes								
Rule 34 Facility								
Rule 36 Facility								
Board & Lodging Facility								
Other (Identify)								

County Morrison

Person Completing Form Marie French 612 632-2941

PART I
Adult Foster Home Licensure Survey

(These questions address only county agency costs)

A. Please estimate the cost of certifying an adult foster home under the current standards of your county based on Rule 51.

1. Cost of certifying worker time to complete certification.

number of hours × cost/hour = 3.5 × 21.04 = 73.64

2 Cost of administrative/supervisor time.

number of hours × cost/hour = .5 × 27.89 = 13.95

3. Cost of clerical support time.

number of hours × cost/hour = .25 × 12.36 = 4.59

4. Travel cost = 12.00

5. Other cost (please specify) =

Total: 104.18

B. Please **estimate** the cost of licensing on adult foster home under the **proposed standards** in Rule 51.

1. Cost of licensing worker time to complete licensure

number of hours × cost/hour = 4.5 × 21.04 = 94.68

2. Cost of administrative/supervisor time

number of hours × cost/hour = 1.0 × 27.89 = 27.89

3. Cost of clerical support time

number of hours		cost/hour		
10	×	18.36	=	18.36

4. Travel cost = 12.00

5. Other costs (please specify) =

TOTAL: 152.93

C. Estimated cost change with proposed standards

1. Total Cost of Licensing a Home: 152.93

2. Total Cost of Certifying a Home: 104 18 32%

Net ~~increase~~ or decrease in county ~~agency's~~ cost per home: 48 75

PART II
Adult Foster Rate Survey

A. What is the base rate for adult foster homes in your county at the present time?

$450/month

B. After the rule for licensure of adult foster homes is promulgated, does your agency intend to change the base rate of reimbursement for adult foster homes?

Yes ___ No ✓

If yes, what is the rate likely to be?

_____/month

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

number of hours × cost/hour =

10.0 × 21.02 = 210.20

2. Cost of administrative/supervisor time

number of hours × cost/hour =

2.0 × 27.89 = 54.78

3. Cost of clerical support time

number of hours × cost/hour =

12.0 × 18.36 = 220.32

4. Travel cost = 72.00

5. Other cost = (please specify)

TOTAL: 557.30

B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

number of hours × cost/hour =

12.0 × 21.03 = 252.24

2. Cost of administrative/supervisor time

number of hours × cost/hour =

2.5 × 27.89 = 69.73

3. Cost of clerical support time

number of hours		cost/hour		
14.5	x	18.36	=	266.22

4. Travel cost = 79.20

5. Other cost = (please specify)

TOTAL: 667 39

C Estimate cost change with proposed standards

1. Total Cost of providing Social Services to an adult in foster care under current Rule 203. 557.30

2. Total Cost of providing Social Services to an adult in foster care under proposed revised Rule 203 (parts 9555.5105 to 9555.5705) 667.39

3. Net increased or decreased cost to county agencies in providing social services to a resident of an adult foster home. +110.09 17%

PART IV
Cost Savings Survey

Only ESTIMATES are being requested

A. Do you think the promulgation of the licensure rule for adult foster homes will result in adults <u>for which your county is financially responsible</u> being placed in adult foster homes who would otherwise have to reside in more costly facilities?

1. No ☑, if No, this is the end of the survey.
2. Yes ☐, if Yes go on to B.

B. Please complete this grid as it applies to your county for adults in various facilities. (We will complete columns G, H and I if you wish.)

A	B	C	D	E	F	G	H	I
Facility	Number of Residents Currently	Number of residents who could be placed in foster care in 1986	Number of residents who could be placed in foster care in 1987	Average Cost per resident per year in facility	Average Cost per resident for foster care	Projected Cost Savings per placement (E-F =)	Total Projected Cost Savings per year (C+D x G =)	Percentage of residents who could be in foster care ($\frac{C+D}{B}$ =)
Nursing Homes								
State Hospital								
Board and Care Homes								
Rule 34 Facility								
Rule 36 Facility								
Board & Lodging Facility								
Other (Identify)								

County RAMSEY

Person Completing Form Barbara Kellett, Joyce Hasselmann Ted Hecht

298 5351

PART I
Adult Foster Home Licensure Survey

(These questions address only county agency costs)

A. Please estimate the cost of certifying an adult foster home under the current standards of your county based on Rule 51.

1. Cost of certifying worker time to complete certification.

number of hours × cost/hour =

12 × 19.46 hr. = $ 235.52 (22% fringe)

2 Cost of administrative/supervisor time.

number of hours × cost/hour =

15 min. × 23.00 hr. = $5.75 (22% fringe)

3. Cost of clerical support time.

number of hours × cost/hour =

2 hrs × 8.53 hr. = $ 17.06 (22% fringe)

4. Travel cost = 6 trips @ 10 mi. = 60 mi. @ .18 = $10.80

5. Other cost (please specify) = 4 hr. @ 19.46 orientation $77.84 $77.84

1 1/2 hr. @ 19.46 hr. fire inspection $29.19

1 hr. @ 23.00 hr Intake = $23.00

Total: $399.16

399.16
23.00
37.80116
29.19
346.97

B. Please estimate the cost of licensing on adult foster home under the proposed standards in Rule 51.

1. Cost of licensing worker time to complete licensure

number of hours × cost/hour =

16 hrs × $19.46 = $311.36 (22% fringe benefits)

2. Cost of administrative/supervisor time

number of hours × cost/hour =

15 min. × 23.00 hr. = $5.75 (22% fringe benefits)

3. Cost of clerical support time

number of hours		cost/hour		
2 hr.	×	8.53 hr.	=	$17.06 (22% fringe benefits)

4. Travel cost = 6 trips @ 10 mi. ea. = 60 @ .18 mi. = $10.80

5. Other costs (please specify) = SAME AS CERTIFICATION

77.84	(orientation)
29.19	(fire insp.)
23.00	(intake)
TOTAL 140.83	

TOTAL: $57.94

C. Estimated cost change with proposed standards

1. Total Cost of Licensing a Home:	$ 457.94
2. Total Cost of Certifying a Home:	399.16
Net increase or decrease in county agency's cost per home:	58.78 (58.78)

13%

All salary figures based on 1986 Contract levels.

PART II
Adult Foster Rate Survey

A. What is the base rate for adult foster homes in your county at the present time?

$444.00 /month

B. After the rule for licensure of adult foster homes is promulgated, does your agency intend to change the base rate of reimbursement for adult foster homes?

Yes X No ___ Estimate: 4% increase based on cost of living index

If yes, what is the rate likely to be?

461.06 /month

COMPLETED BY WORKERS FROM OUR ADULT FOSTER CARE ADVISORY COMMITTEE

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

	number of hours		cost/hour		
ASSESSMENT thru 1st 30 days of placement	25	×	19.46	=	$ 486.50
Service per year	40	×	19.46	=	778.40

2. Cost of administrative/supervisor time

number of hours		cost/hour		
1 hr.	×	$ 23.00 hour	=	$ 23.00

3. Cost of clerical support time

number of hours		cost/hour		
3 hrs.	×	$ 8.53 hour	=	$ 25.59

4. Travel cost = 6 trips at 10 mi. each = 60 $10.80 (at 18¢/mi)

5. Other cost = (please specify)

TOTAL: 1324.29 per year

B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

	number of hours		cost/hour		
ASSESSMENT thru 1st 30 days of placement	30	×	$19.46 hour	=	$ 583.80
Service per year	48	×	$19.46 hour	=	934.08

2. Cost of administrative/supervisor time

number of hours		cost/hour		
1 hour	×	$23.00 hour	=	$ 23.00

3. Travel 8 trips at 10 mi each = 80 = $14.40

TOTAL = $1555.28

DIFFERENCE
License 1555.28
Cert 1324.29
230.99

15%

PART IV
Cost Savings Survey

Only ESTIMATES are being requested

A. Do you think the promulgation of the licensure rule for adult foster homes will result in adults <u>for which your county is financially responsible</u> being placed in adult foster homes who would otherwise have to reside in more costly facilities?

1. No [X], if No, this is the end of the survey.
2. Yes [ ], if Yes go on to B.

Placement requests and actual placements will remain the same with or without the New Rule.

B. Please complete this grid as it applies to your county for adults in various facilities. (We will complete columns G, H and I if you wish.)

A	B	C	D	E	F	G	H	I
Facility	Number of Residents Currently	Number of residents who could be placed in foster care in 1986	Number of residents who could be placed in foster care in 1987	Average Cost per resident per year in facility	Average Cost per resident for foster care	Projected Cost Savings per placement (E-F =)	Total Projected Cost Savings per year (C+D x G =)	Percentage of residents who could be in foster care ($\frac{C+D}{B}$ =)
Nursing Homes								
State Hospital								
Board and Care Homes								
Rule 34 Facility								
Rule 36 Facility								
Board & Lodging Facility								
Other (Identify)								

OTTER TAIL COUNTY
505 South Court Street • Phone (218) 739-4491
Fergus Falls, Minnesota 56537

Department Of Social Services

May 29, 1986

Gwen Wildermuth
Adult Foster Care Consultant
Department of Human Services
Centennial Office Building
St. Paul, MN 55155

Enclosed please find our Adult Foster Home Licensure Survey.

Lucille Larson

Lucille Larson, Supervisor
Social Service Unit

:cs

Encl.



County Otter TAil

Person Completing Form Lucille Larson

PART I
Adult Foster Home Licensure Survey

(These questions address only county agency costs)

A. Please estimate the cost of certifying an adult foster home under the current standards of your county based on Rule 51.

1. Cost of certifying worker time to complete certification.

number of hours × cost/hour =

5 × 9.93 = 49.65

2 Cost of administrative/supervisor time.

number of hours × cost/hour =

.85 × 13.86 = 11.78

3. Cost of clerical support time.

number of hours × cost/hour =

2 × 5.97 = 11.94

4. Travel cost = 120.00

5. Other cost (please specify) =

Training 100.00

Total: 293.27

B. Please estimate the cost of licensing on adult foster home under the proposed standards in Rule 51.

1. Cost of licensing worker time to complete licensure

number of hours × cost/hour =

7 × 9.93 = 69.51

2. Cost of administrative/supervisor time

number of hours × cost/hour =

.85 × 13.86 = 11.78

PART II
Adult Foster Rate Survey

A. What is the base rate for adult foster homes in your county at the present time?

456.00 /month as of July 1

B. After the rule for licensure of adult foster homes is promulgated, does your agency intend to change the base rate of reimbursement for adult foster homes?

Yes ___ No ___ We have made no decision.

If yes, what is the rate likely to be?

_____/month

3. Cost of clerical support time

number of hours		cost/hour		
2.5	×	5.97	=	8.47

4. Travel cost = -

5. Other costs (please specify) = 120.00

Training 100.00

TOTAL: 309.76

C. Estimated cost change with proposed standards

1. Total Cost of Licensing a Home: 309.76

2. Total Cost of Certifying a Home: 293.27

Net increase or decrease in county agency's cost per home: 16.49

56

PART III
Social Services for Residents of Adult Foster Homes
Survey

(These questions address only county agency costs)

A. Please estimate the cost of providing social services to an adult in foster care per year under the current Rule 203.

1. Cost of social worker time to complete placement assessment and provide social services (on the average).

number of hours		cost/hour		
20	×	10.41	=	208.20

2. Cost of administrative/supervisor time

number of hours		cost/hour		
10	×	13.86	=	138.86

3. Cost of clerical support time

number of hours		cost/hour		
48	×	5.97	=	286.56

4. Travel cost = 50.00

5. Other cost = (please specify) _____

_____

_____

_____

TOTAL: 683.62

B. Please estimate the cost of providing social services to an adult in foster care per year under the proposed Rule 203 (Parts 9555.5105 to 9555.5705).

1. Cost of social worker time to complete placement assessment and provide social services (on the average)

number of hours		cost/hour		
25	×	10.41	=	260.25

2. Cost of administrative/supervisor time

number of hours		cost/hour		
12	×	13.86	=	166.32

3. Cost of clerical support time

number of hours × cost/hour = 2.5 × 5.97 = 8.47

4. Travel cost = -

5. Other cost = (please specify) 100 training

TOTAL: _____

C Estimate cost change with proposed standards

1. Total Cost of providing Social Services to an adult in foster care under current Rule 203. 309.76

2. Total Cost of providing Social Services to an adult in foster care under proposed revised Rule 203 (parts 9555.5105 to 9555.5705) 293.27 5% inc

3. Net increased or decreased cost to county agencies in providing social services to a resident of an adult foster home. $16.49

PART IV
Cost Savings Survey

Only ESTIMATES are being requested

A. Do you think the promulgation of the licensure rule for adult foster homes will result in adults <u>for which your county is financially responsible</u> being placed in adult foster homes who would otherwise have to reside in more costly facilities?

1. No ☐, if No, this is the end of the survey.

2. Yes ☒, if Yes go on to B. We are working to develop Waivered Services - "Specialized foster homes" and are open to possibility for MI foster home and development of day program for them.

B. Please complete this grid as it applies to your county for adults in various facilities. (We will complete columns G, H and I if you wish.)

A	B	C	D	E	F	G	H	I
Facility	Number of Residents Currently	Number of residents who could be placed in foster care in 1986	Number of residents who could be placed in foster care in 1987	Average Cost per resident per year in facility	Average Cost per resident for foster care	Projected Cost Savings per placement (E-F =)	Total Projected Cost Savings per year (C+D x G =)	Percentage of residents who could be in foster care (C+D / B =)
Nursing Homes	18	1	1	~~27,116~~	* 5472.00 & program			
State Hospital	55	2 5	2 3	42,449.50 53,782.75	MI 5472.00* MR 5472.00*			
Board and Care Homes	5	0		~~6,528.00~~ ~~1,095.00~~	5472.00*			
Rule 34 Facility	53	5	5	18,112.50	5472.00*			
Rule 36 Facility	15	2	1	9,942.00	5472.00*			
Board & Lodging Facility	8	2	1	5,472.00	5472.00			
Other (Identify)								

State Hospital prospects for MR would be specialized foster home and likely Waivered Services.
MI " need day program.
Estimates for foster care are only maintenance costs and do not include day program of any kind.
Also Rule 34 would probably be specialized foster home under waiver and would need to add program costs to that.

Thank you.

Please return to:

Gwen Wildermuth
Department of Human Services
4th floor Centennial Office Building
St. Paul, MN 55155

Exhibit Y

Minnesota Board of Medical Examiners

EXECUTIVE OFFICE
Suite 106
2700 University Avenue West
St. Paul, Minnesota 55114-1080
(612) 642-0538

July 28, 1986

Gwen Wildermuth
Adult Foster Care Consultant
Department of Human Services
Centennial Office Building
St. Paul, MN 55155

Dear Ms. Wildermuth:

The Board of Medical Examiners reviewed your letter of July 16, as well as the draft of the adult foster home licensure rule.

Regarding your question concerning specifically 9555.6225, subpart 8, item h on page 30, the Board is of the opinion that this clearly is "an authorized practice of medicine".

The Board suggests, however, that language be added to h(2) providing for a written agreement between the physician and the caregiver. This written agreement would include specifically what kinds of injections the caregiver is going to give, as well as a statement that the supervising physician assumes full medical responsibility for all patient services provided by the caregiver within the scope of the agreement. The agreement should then be signed by both the physician and the caregiver.

The Board suggests that you may want to look at the newly adopted rules relating to Physician Assistants, especially 5600.2635, subpart 3 on pages 8 and 9. I am enclosing a copy of the rules for your reference.

If this response does not fully cover all points which you raised, or if you have additional questions, please feel free to give me a call at 642-0528.

Sincerely,

David M. Ziegenhagen
Executive Director

DMZ:lk

Enclosure



Department of Health

Division of Health Resources

Adopted Rules Relating to Physician Assistants

Rules as Adopted

REGISTRATION OF PHYSICIAN ASSISTANTS

5600.2600 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 5600.2600 to 5600.2665, the following terms have the meanings given them.

Subp. 2. Active status. "Active status" means the status of a person who has met all the qualifications of a physician assistant and has a physician-physician assistant agreement in force and approved by the board.

Subp. 3. Agreement. "Agreement" means a document signed by the physician and the physician assistant which includes contents specified in part 5600.2635, subpart 3.

Subp. 4. Alternate supervising physician. "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant agreement who shall be responsible for supervising the physician assistant when the supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subp. 5. Board. "Board" means the Minnesota Board of Medical Examiners.

Subp. 6. Commissioner. "Commissioner" means the commissioner of the Department of Health.

Subp. 7. Contact hour. "Contact hour" means an instructional session of 60 consecutive minutes, excluding coffee breaks, registration, meals with a speaker or without a speaker, and other social activities.

Subp. 8. Diagnostic order. "Diagnostic order" means a directive to perform a procedure or test, the purpose of which

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is to determine the cause and nature of a pathological condition or disease.

Subp. 9. Inactive status. "Inactive status" means the status of a person who has met all the qualifications of a physician assistant but does not have a physician-physician assistant agreement in force and approved by the board.

Subp. ~~9.~~ 10. Physician. "Physician" means a person currently licensed in good standing as a physician or osteopath under Minnesota Statutes, chapter 147.

Subp. ~~10.~~ 11. Physician assistant; registered physician assistant. "Physician assistant" or "registered physician assistant" means a person registered pursuant to parts 5600.2600 to 5600.2665 who is qualified by academic or practical training or both to provide patient services as listed in part 5600.2615 under the supervision of a supervising physician.

Subp. ~~11.~~ 12. Registration. "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications specified in parts 5600.2600 to 5600.2665.

Subp. ~~12.~~ 13. Supervising physician. "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement approved by the board and pursuant to part 5600.2615. "Supervising physician" shall include "alternate supervising physician" for the purposes of parts 5600.2600 to 5600.2665.

5600.2605 PURPOSE.

The purpose of parts 5600.2600 to 5600.2665 is to establish the administrative structure, the procedures, and the requirements for the registration of people qualified to be physician assistants.

5600.2610 RESTRICTIONS ON USE OF THE TITLE OF REGISTERED PHYSICIAN ASSISTANT.

Subpart 1. Physician assistant identification. A registered physician assistant in active status may use the

title "physician assistant" or "registered physician assistant" without restriction. A registered physician assistant in active status shall identify himself or herself at the practice site by using a name tag or name plate or some other identifying device bearing the title "registered physician assistant."

Subp. 2. Inactive status. A registered physician assistant in inactive status may not use the title "registered physician assistant" in connection with the delivery of health care services. A registered physician assistant in inactive status may not use the title on a name tag or name plate at any medical or health care facility or office in providing patient services.

5600.2615 SCOPE OF PHYSICIAN ASSISTANT PRACTICE.

Subpart 1. General limitation on scope of practice. Patient services must be limited to:

A. services within the training or experience of the physician assistant~~,~~;

B. services customary to the practice of the supervising physician~~,~~; and

C. services delegated by the supervising physician.

Subp. 2. Descriptive list of allowed services. Patient services ~~may include~~ must be limited to:

A. taking complete, detailed, and accurate patient histories and reviewing patient records to develop comprehensive medical status reports;

B. performing physical examinations and recording all pertinent patient data;

C. interpreting and evaluating patient data as authorized by the supervising physician for the purpose of determining management and treatment of patients;

D. initiating requests for, or performing, diagnostic procedures as indicated by pertinent data, and as authorized by the supervising physician;

E. performing therapeutic procedures as authorized by the supervising physician;

F. providing instructions and guidance regarding

medical care matters to patients; and

G. assisting the supervising physician in the delivery of services to patients requiring medical care in the home and in health care institutions, including recording patient progress notes, issuing diagnostic orders which must be countersigned by the supervising physician within 24 hours, and transcribing or executing specific orders at the direction of the supervising physician.

5600.2620 REQUIREMENTS FOR ADEQUATE SUPERVISION.

To ensure the supervising physician assumes full medical responsibility for patient services provided by the physician assistant, the supervising physician shall instruct and direct the physician assistant in the assistant's duties, oversee and check the assistant's work, and provide general direction to the assistant. The physician assistant and supervising physician shall comply with at least the following criteria:

A. A supervising physician must be able to be contacted within 15 minutes either in person or by telecommunication for consultation with the assistant.

B. A supervising physician shall review and evaluate patient services provided by the physician assistant on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication.

C. A supervising physician shall be on site at facilities staffed by a physician assistant if they are separate from the usual practice site of the supervising physician at least twice a week for at least eight hours a week during patient contact time.

D. A supervising physician may not supervise more than two physician assistants.

E. The prescribing, administering, and dispensing of legend drugs shall only be done in accordance with Minnesota Statutes, ~~chapter~~ chapters 151 and 152.

F. The physician assistant and supervising physician shall ensure that an alternate physician is available to supervise if the supervising physician is absent.

APPROVED BY THE REVISOR OF STATUTES

5600.2625 REQUIREMENTS FOR REGISTRATION.

Subpart 1. Requirements for registration in active status. An applicant for registration as a physician assistant in active status shall:

A. Successfully complete a physician assistant training program recognized by the board as approved by a national accrediting body for physician assistant training. To be recognized by the board the accrediting body must meet the following criteria:

(1) It must be capable of evaluating physician assistant training programs throughout the United States.

(2) It must be capable of conducting site visits to evaluate the facilities used by the physician assistant training program, including evaluation of libraries and laboratories.

(3) It must be capable of evaluating the quality of the academic programs offered as well as evaluating the faculty.

(4) It must use standards that ensure that graduates of the training program have the knowledge and training to practice as a physician assistant within the scope of practice defined by these rules.

(5) It may not be affiliated with any individual physician assistant training program.

B. Successfully complete an examination which has been approved by the board as assessing physician assistant skills. The examination must meet the following criteria:

(1) The examination must be validated by a content validity study which consists of data showing that the examination covers a representative sample of the job tasks, work behavior, or performance skills essential to the job for which the applicant is to be evaluated; or the examination must be validated by a criterion-related validity study which consists of empirical data demonstrating that the selection is predictive of, or significantly correlated with job performance and which has a validity coefficient significant at the 0.05

level of significance.

(2) Validity studies must be based upon a review of information about the job for which the examination is to be used. The review must include at least an analysis of job tasks, work behavior, or performance skills that are relevant to the job.

(3) Job tasks, work behaviors, or performance skills used as a basis for test developments or validity studies must include at least the procedures and techniques which may be delegated to physician assistants as outlined in part 5600.2615.

(4) The examination must be determined to be reliable utilizing the parallel forms or internal consistency methods of estimating reliability and the reliability coefficient must be not less than 0.70.

(5) The examination must be revised or a new form must be issued when technical advances indicate the examination should be updated to acknowledge related changes in the ~~definition~~ scope of authorized practice of a physician assistant as outlined in part 5600.2615.

(6) The examination must be revised or a new form must be issued when it is necessary to meet additional standards or knowledge requirements adopted by the commissioner.

C. Have an agreement between the physician and physician assistant which complies with part 5600.2635, subpart 3.

Subp. 2. **Requirements for registration in inactive status.** An applicant for registration as a physician assistant in inactive status must meet the requirements of ~~part 5600.2625,~~ subpart 1, items A and B.

A physician assistant in inactive status may apply for registration in active status when the requirements of ~~part 5600.2625,~~ subpart 1, item C are met.

5600.2630 APPLICATION PROCESS FOR INITIAL REGISTRATION.

Subpart 1. Form required. All applicants for initial registration as physician assistants shall submit an application on forms provided by the board together with fees described

...STATUTES
...BY:

under part 5600.2655. The application must include information sufficient to permit a complete evaluation of each applicant to determine whether the applicant meets the requirements for registration and must include information sufficient to permit an evaluation by the board of the proposed supervision of the physician assistant. For the purpose of confirming the applicant's qualifications or to clarify the proposed supervisory relationship, the board shall request that an applicant submit additional information if it is necessary to clarify incomplete or ambiguous information presented in the application.

Subp. 2. Contents of application form. The application form must include questions which require the applicant to do the following:

A. provide demographic information as deemed necessary by the board;

B. list or describe areas of specialization or special training or experience of the physician assistant including previous work history;

C. provide certification from the director of the program or dean of the school of successful completion of an approved program as described in part 5600.2625, subpart 1, item A;

D. provide certification demonstrating successful completion of an approved examination as described in part 5600.2625, subpart 1, item B; and

E. provide the names and addresses of two individuals who can be contacted for a reference about the applicant, one of whom is a physician or osteopath licensed in the United States, other than the supervising physician, who personally know the applicant.

5600.2635 APPLICATION PROCESS FOR APPROVAL OF AGREEMENT BETWEEN PHYSICIAN AND PHYSICIAN ASSISTANT.

Subpart 1. Form required. An applicant seeking active status must submit an application on forms provided by the board and an agreement signed by the physician assistant and the

supervising physician and any alternate supervising physician.

Subp. 2. Contents of form. The completed application form must contain the following information:

A. identify the licensed supervising physician and any areas of specialization of the physician and alternate supervising physicians;

B. describe the practice in which the physician assistant will be used and the current plans for use of the physician assistant;

C. identify and describe the practice sites of the supervising physician and physician assistant;

D. identify other physicians or physician assistants who may be involved;

E. list or describe areas of specialization, special training, or experience of the physician assistant; and

F. provide any other information which is judged to be necessary by the board to answer questions regarding supervision of the physician assistant.

Subp. 3. Contents of agreement. The agreement must include at least the following:

A. specific plans for supervision of the physician assistant by the supervising physician as well as alternate supervising physicians if more than one physician will be working with the physician assistant;

B. plans for supervision when the supervising physician is not available;

C. restrictions or instructions regarding the functions or practices of the physician assistant and any letters of agreement or other protocols to or restrictions established by or with any health care facility concerning the practice of the physician assistant when functioning in the facility, including letters of agreement made for or with pharmacists regarding the practice of the physician assistant in carrying out the directions of the physician;

D. a statement that the supervising physician and alternate supervising physician assume full medical

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responsibility for all patient services provided by the physician assistant; and

B. any other information which will assist the board in determining whether the physician assistant will be adequately supervised by the supervising physician.

Subp. 4. Modification or termination of agreement. The physician assistant and the supervising physician shall notify the board upon the modification or termination of the agreement. Upon termination of the agreement, the board shall classify the physician assistant in inactive status until a new agreement is approved. If the modification results in an expansion of the physician assistant's duties, the modification must be approved by the board before the physician assistant begins the new duties.

5600.2640 TEMPORARY REQUIREMENTS DURING TRANSITION.

Subpart 1. Initial registration requirements. An applicant for initial registration as a physician assistant is not required to meet the requirements of part 5600.2625, subparts 1, items A and B; and 2, until two years after the effective date of parts 5600.2600 to 5600.2665 if the applicant provides documented evidence that the following requirements have been met:

A. An applicant has completed a course of study in medical care which was at least 18 months full time and which had course content judged by the board to be equivalent to the program content of an accredited physician assistant program. An applicant may petition the board to accept informal training which the board judges to be equivalent in program content to an accredited program.

B. An applicant has been employed as a full-time physician assistant for at least four of the last five years under the supervision of a licensed physician. This experience must be recorded on forms provided by the board.

Subp. 2. Examination requirements. A physician assistant who qualified for initial registration by meeting the requirements of subpart 1 must successfully complete an

examination which meets the requirements of part 5600.2625, subpart 1, item B within two years of the date initial registration was approved by the board. If the physician assistant successfully completes the examination within the two years, a physician assistant is exempt from meeting the requirements for registration of part 5600.2625, subpart 1, item A. If the physician assistant does not successfully complete the examination within the two years, the board will revoke the physician assistant's registration and the physician assistant shall then meet all the requirements of part 5600.2625 for registration.

Subp. 3. **Active status requirements.** A physician assistant who qualified for initial registration by meeting the requirements of subpart 1 must also meet the requirements of part 5600.2625, subpart 1, item C if the physician assistant wishes to be registered in active status.

5600.2645 APPLICATION PROCESS FOR REREGISTRATION.

A physician assistant's registration expires each year on July 1. Each physician assistant must reregister on or before July 1 of each year by submitting a completed application for reregistration on a form provided by the board together with the annual reregistration fee. The information supplied on the application for reregistration must be sufficient for the board to determine whether the physician assistant continues to meet the requirements for registration in part 5600.2625 or 5600.2640. In addition, the applicant must meet the continuing education requirements of part 5600.2650. The board may request a physician assistant to submit additional information to clarify information presented in the application for reregistration. An application submitted after the reregistration deadline date must be accompanied by a late fee.

5600.2650 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. **Amount of education required.** Applicants for reregistration must either attest to and document successful completion of at least 50 contact hours of board-approved

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continuing education ~~or-the-equivalent~~ as described in subpart 3 within the two years immediately preceding reregistration, or attest to and document taking the national certifying examination within the past two years.

Subp. 2. Type of education required. Approved continuing education activities are learning experiences designed to promote continuing competency in the procedures and techniques outlined in part 5600.2615. The activities must receive board approval for continuing education.

The board shall base its approval of a continuing education activity on the following criteria:

A. It must have specific, written objectives which describe expected outcomes for the participant.

B. It must be presented by knowledgeable persons who have reviewed the development in the subject being covered in the program within the last two years. The presenting person must have specialized training in the subject matter, experience in teaching the subject matter, or experience in working in the subject areas.

C. It must last at least one contact hour.

D. It must utilize a mechanism to validate participation, such as earned credits or verification of attendance. Program sponsors shall maintain attendance sheets for three years.

Subp. 3. **Restrictions on earning credits through contact hour equivalents.** Contact hour equivalents can include medical teaching, publication of books or papers, lectures, exhibits, and self-teaching. No more than ten hours of credit may be obtained in any renewal period through medical teaching. No more than ten hours of credit may be obtained in any renewal period through a combination of publications, lectures, and exhibits. No more than ten hours of credit may be obtained through self-teaching. Credits may be obtained in the following ways:

A. five hours of credit for a scientific paper or book chapter published in a peer-reviewed medical journal or

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book;

B. an hour of credit for each hour spent lecturing at a course which qualifies for board approval under subpart 2;

C. an hour of credit for each hour spent self-teaching; and

D. five hours of credit for a paper or exhibit presented before a professional or allied health audience. Credit may be claimed only once for such a presentation.

Subp. 4. Verification of continuing education reports. Periodically, the board shall select a sample of the registered physician assistants and request evidence of continuing education to which they attested. Documentation may come directly from the registrant or from a national accrediting or certifying organization which maintains those types of records.

5600.2655 APPLICATION FEES.

Subpart 1. Initial registration fee. The initial registration fee shall be $100.

Subp. 2. Annual reregistration fee. The annual fee for reregistration shall be $20.

Subp. 3. Penalty fee for late renewals. The penalty fee for late submission of an application for reregistration shall be $5.

Subp. 4. Fee for approval of agreements. The fee for approval of an agreement between a physician and physician assistant by the board shall be $30.

Subp. 5. Notice of fee changes. The board shall notify physician assistants about fee changes under subparts 1 to 4 in the same manner as it notifies physicians about those types of fee changes.

Subp. 6. Surcharge. For a period of five years following the effective date of parts 5600.2500 to 5600.2665, a surcharge shall be added to each initial registration and annual registration fee. The surcharge shall be calculated by dividing the cost of adopting the rules by five to reach the amount which must be recouped each year, and then, on a yearly basis, calculate the surcharge by dividing the amount that must be

recouped each year by the number of registrants and reregistrants that year.

5600.2660 PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

Subpart 1. Investigation of complaints. Upon receiving a complaint or other oral or written communication, which alleges or implies the existence of grounds for revocation of registration or disciplinary actions as specified in subpart 2, the physician assistant council established in part 5600.2665 may initiate an investigation. The council may request the physician assistant to appear before it to determine the merits of the situation in question. In each case, the council shall make a recommendation to the board as to whether proceedings under the contested case provisions of the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.70, would be appropriate and should be initiated. Before any disciplinary action, a written complaint must be obtained from a complaining party.

Subp. 2. Disciplinary options of board. The board shall refuse to grant or renew a registration, or shall suspend or revoke a registration, or use any reasonable lesser remedy against a physician assistant if the assistant:

A. submits false or misleading information or credentials in order to obtain or renew registration;

B. fails to meet the requirements for initial or reregistration;

C. incompetently, negligently, or inappropriately performs patient services;

D. performs patient service beyond the scope of practice authorized by ~~this~~ part 5600.2615;

E. violates parts 5600.2600 to 5600.2665; or

F. is unable to perform patient services with reasonable skill and safety to patients due to physical or mental illness or use of alcohol, drugs, or other substance.

Subp. 3. Disciplinary actions. If the board finds that a physician assistant should be disciplined pursuant to subpart 2, the board may take any one or more of the following actions:

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A. refuse to grant or renew a registration;

B. revoke a registration;

C. suspend any registration for a definite period;

D. administer a ~~public or private~~ reprimand;

E. condition, limit, or restrict a registration; or

F. place the physician assistant on probation, which probation may be vacated upon compliance with such reasonable terms as the board may impose.

Subp. 4. Consequences of disciplinary action. Upon the revocation or suspension, the registrant shall return to the board his or her ~~registration~~ certificate and current renewal document.

Subp. 5. Reinstatement requirements after disciplinary action. A physician assistant who has had registration revoked cannot apply for reinstatement until at least one year after the effective date of the revocation or for a longer period of time specified by the board. A suspended registration shall be reinstated upon fulfillment of the terms of suspension. All requirements of part 5600.2645 for renewing registration, if applicable, must also be met before reinstatement.

5600.2665 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subpart 1. Membership. Subject to approval by the board, the commissioner shall appoint seven persons to a physician assistant advisory council. The seven persons must include:

A. two public members, as defined in Minnesota Statutes, section 214.02;

B. three physician assistants registered under parts 5600.2600 to 5600.2665; and

C. two licensed physicians one of whom must be a representative of the board.

Subp. 2. Organization. The council shall be organized and administered under Minnesota Statutes, section 15.059.

Subp. 3. Duties. The council shall:

A. advise the board regarding physician assistant registration standards;

B. advise the board on enforcement of parts 5600.2600

to 5600.2665;

C. provide for distribution of information regarding physician assistant registration standards;

D. review applications and recommend applicants for registration or reregistration;

E. receive and process complaints about applicants and registrants in accordance with Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;

F. perform disciplinary investigations; and

~~F.~~ G. perform other duties authorized for the council by Minnesota Statutes, chapter 214 as directed by the board.

APPROVED BY THE
REVISOR OF STATUTES
OFFICE BY:

Exhibit Z

Home Safety Checklist
Adult Foster Homes

License No.: _____ Date: _____

Name: _____ Phone: ( ) _____

Address: _____

City: _____ Zip Code: _____

Number of Residents: _____

This check list shall be completed by the adult foster home operator and the licensing agency as part of the annual relicensing study, unless an annual inspection has been conducted by a fire marshal. It is designed to assist with a complete evaluation of the home to assure that the minimum fire safety practices and features required by a fire marshal are maintained. If, in the opinion of the agency representative, a potentially hazardous condition may be present, the agency shall request an inspection by a fire marshal.

	YES	NO	N/A
A. Emergency Procedures:			
1. The number of the local fire department is posted near the phone. (9555.6225, Subp.5 C.)	☐	☐	☐
2. Caregivers have been trained in proper fire safety and evacuation procedures. (9555.6225, Subp.5)	☐	☐	☐
3. A written emergency escape plan has been developed for each resident. (9555.6225, Subp.5 H.)	☐	☐	☐
4. Fire drills are conducted quarterly and documented in a log. (9555.6225, Subp.5 F. and G.)	☐	☐	☐
5. At least one operable flashlight is available and maintained. (9555.6225, Subp.5)	☐	☐	☐
6. Approved first aid supplies are available and maintained including bandages, sterile compresses, scissors, ice bag, or cold pack, oral or thermal thermometer, mild liquid soap, adhesive tape and first aid manual. (9555.6225, Subp.4.)	☐	☐	☐
7. A non-coin operated telephone is located within the residence. (9555.6225, Subp.5 A.)	☐	☐	☐
8. Residents have been informed of a designated area within the residence where they must go for cover during severe storms or tornadoes. (9555.6225, Subp.5 E.)	☐	☐	☐
B. Means of Escape:			
1. Exit doors and other means of escape are unobstructed by ice, snow and debris. (9555.6125, Subp.2)	☐	☐	☐
2. Bedroom escape windows are easily openable from the inside and unobstructed by screens, which are nailed on, plastic or other obstructions. (9555.6125, Subp.2)	☐	☐	☐
3. All locks are openable from the inside without the use of a key. (9555.6125, Subp.2)	☐	☐	☐
C. Electrical:			
1. All fuses are properly sized for the circuits they are designed to protect. (9555.6125, Subp. 2)	☐	☐	☐
2. Extension cords are not used in place of permanent wiring. (9555.6125, Subp. 2)	☐	☐	☐

	YES	NO	N/A
3. Mult. plug adaptors are not used. (9555.6125, Subp.2)	☐	☐	☐
4. Extension cords are not run under rugs nor through walls or door or window openings, nor are they damaged in any way. (9555.6125, Subp.2)	☐	☐	☐
5. The main electrical switch is easily accessible. (9555.6125, Subp.2)	☐	☐	☐

D. Housekeeping:

	YES	NO	N/A
1. The basement, closets and attic are free of old rags, papers, mattresses, broken furniture and hazardous quantities of other combustibles. (M.S. 299F.018)	☐	☐	☐
2. The space beneath stairways is free of all combustible storage. (9555.6125, Subp.2)	☐	☐	☐
3. If the answer to Item 2 is "no", the underside of the stairway is protected by materials providing at least 2-hour fire resistance. (9555.6125, Subp.2)	☐	☐	☐
4. All flammable and combustible liquids are properly stored. (M.S. 299F, Subp.2)	☐	☐	☐
5. Food is obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to health. (9555.6215, Subp.3.)	☐	☐	☐
6. Residence is clean and free from accumulations of dirt, rubbish, peeling paint. (9555.6225, Subp.1.)	☐	☐	☐
7. Chemicals, detergents, and other toxic substances are stored separately from food products (9555.6215, Subp.3.)	☐	☐	☐
8. Water from privately-owned wells is tested annually by a Minnesota Health Department-certified laboratory. (9555.6215, Subp.1)	☐	☐	☐
9. Individual clean towels, wash cloths and bed linens are available to each resident. (9555.6225, Subp.6.)	☐	☐	☐
10. Schedule II controlled substances in the residence are stored in a locked storage area. (9555.6225, Subp.9.)	☐	☐	☐
11. Weapons and ammunition are stored separately in locked areas which prevent the contents from being visible and are inaccessible to residents. (9555.6225, Subp.10.)	☐	☐	☐

E. Heating/Cooking Equipment:

	YES	NO	N/A
1. Kitchen cooking areas are clean and free of grease accumulations. (9555.6125, Subp.2)	☐	☐	☐
2. The water heating equipment is provided with a proper temperature and/or pressure relief valve. (9555.6125, Subp.2)	☐	☐	☐
3. Fireplaces are equipped with a sturdy metal fire screen or heat tempered glass doors. (9555.6125, Subp.2)	☐	☐	☐
4. Woodburning appliances are maintained the proper distance from combustibles. (9555.6125, Subp.2)	☐	☐	☐

F. Physical Plant:

	YES	NO	N/A
1. At least one 2A-10BC rated and approved portable fire extinguisher is maintained in the kitchen cooking area and is serviced and tagged annually. (9555.6125, Subd.2)	☐	☐	☐
2. All smoke detectors are maintained in proper operating condition. (9555.6125, Subp.2)	☐	☐	☐
3. The bathroom door is openable from the outside in case of emergency and the opening device is maintained at an easily accessible location near the door. (9555.6125, Subp.2)	☐	☐	☐

	YES	NO	N/A
4. If there is an attached garage, a proper fire separation is maintained between the house and garage. (9555.6125, Subp.2)	☐	☐	☐
5. Any changes or repairs to the residence have been reported to the local agency. (9555.6125, Subp.2)	☐	☐	☐
6. Any fire that causes damage to the residence or requires the service of a fire department has been reported to the local agency. (9555.6175, Subp.2)	☐	☐	☐

REMARKS (Please explain all "no" answers):

Date: _____ Signed: _____
Adult Foster Home Operator

Date: _____ Signed: _____
Agency Representative

Exhibit HH

DEPARTMENT OF HUMAN SERVICES STATE OF MINNESOTA

OFFICE MEMORANDUM

TO: Adult Foster Care Certifying Workers DATE: 8/12/86

GW

FROM: Gwen Wildermuth PHONE: 296-0311
Adult Foster Care Consultant

SUBJECT: Mobility Access Checklist

Attached is a draft of the mobility checklist which will be used after the licensure rule (51) is promulgated.

The draft has been developed by a committee of the rule task force and by Diane Sprague, Accessibility Specialist, Minnesota Housing Finance Agency. The next step is to field test it. To do this we need your assistance. We request that you use this draft the next time you are considering placing an adult with physical impairments in an adult foster home. Please comment on how workable it is and how adequately it meets needs of prospective residents. The comments can be sent to me as follows:

Gwen Wildermuth
Department of Human Services
Centennial Office Building - 4th Floor
St. Paul, MN 55155

Thank you for your continuing support and cooperation.

GW/km
Attachment

MOBILITY ACCESS GUIDE

This guide is to be used in assessing the appropriateness of a particular adult foster home for placement of a prospective resident with a physical disability. There are three stages in the assessment process which includes:

- Identifying a person's capabilities and physical limitations;
- Identifying any elements of a home's design or features that present major accessibility/safety problems for the person, and if so;
- Identifying what accommodations can be arranged to reduce or eliminate these problems and make the placement acceptable.

This assessment, including the review and choice of options to accommodate the person's needs, must be performed at minimum by:

- The prospective resident and/or the resident's legal representative;
- A licensing worker from the service agency; and
- The adult foster home operator.

These participants are encouraged to contact the resource persons identified in each of the assessment stages whose knowledge/expertise may be helpful in clearly determining the person's capabilities/limitations and the range of alternatives that may be considered in accommodating these needs.

The results of this assessment must be recorded on the accompanying form, and incorporated into any Individual Resident Placement Agreement established with an adult foster care operator.

Section I - Personal Needs of the Prospective Resident

The intent of the first stage of the assessment is to identify the type of disability a person has, and how independently he or she can perform very basic movements/tasks. The licensing worker must consult with the disabled person and/or his/her legal representative in completing this profile. The following resource persons may also have helpful information to contribute:

- A family member;
- A friend or advocate;
- A staff or household member of the prospective resident's current or most recent placement;
- A professional providing health care services to the resident; and
- Any medical or rehabilitation reports available on the person.

Section II - Foster Home Site Review

In the second stage of the assessment, the licensing worker must meet with the foster care operator at the home to compare the prospective resident's capabilities/needs with the home's design and features and to identify if there are any major accessibility and safety problem areas that have to be addressed before placement can be approved. For prospective residents who would require total assistance at all times, the focus should be on identifying problems the operator would have in providing such care. For prospective residents with capacity for self-care, the focus should be on identifying problems that would restrict their independence and ability to become more self-sufficient.

Section III - Accessibility and Safety Recommendations and Agreement

Based on the information obtained in the first and second stages, the intent of the third stage is to determine what accessibility and safety accommodations must be made so that the placement can be approved, and what options are available for making these accommodations. In some cases, the only real option available may be to make a structural modification in the home's layout or features. In other cases, portable equipment, personal appliances or aids, or personal assistance may provide an acceptable alternative form of accommodation.

If the prospective resident does not accompany the licensing worker to the home when the site review is conducted, he or she (and/or legal representative) must visit and review the home and consider the options being proposed prior to any placement being finalized.

If the licensing worker and foster care provider need assistance in considering possible alternative forms of accommodation for this stage of the assessment, the advice or participation of the following professionals may be helpful:

- Occupational therapists (OTR)
- Physical therapists (RPT)
- Architects or persons who have special training in accessible residential design
- Local contractors, home remodelers, or staff of local housing authorities or community action programs who may have experience in home accessibility remodeling.

CSW/22

MOBILITY ACCESS REVIEW & AGREEMENT

Operator's name _____

Adult foster home address _____

Adult foster home telephone _____

Prospective resident _____

SECTION I - PROSPECTIVE RESIDENT'S NEEDS

Primary disability (identify) _____

Any other disabilities _____

Profile of the prospective resident's capabilities/level of independence:

Mobility - on one level

- ☐ can walk independently at all times
- ☐ can walk if provided with personal assistance (e.g. support for balance)
- ☐ must use the following mobility equipmnt to move:

equipment	how often must use
_____	_____
_____	_____
_____	_____

- ☐ requires personal assistance and the mobility equipment identified above to move (e.g. wheelchair must always be pushed)
- ☐ other: _____

Mobility - between levels

- ☐ can walk independently at all times up stairs of any length
- ☐ can walk independently only up a short flight of stairs (e.g. at the front or back door)
- ☐ can walk up stairs of any length if provided with personal assistance (e.g. someone to lean on for balance)
- ☐ can only walk up short slight of stairs if provided with personal assistance
- ☐ can go up stairs only if mobility equipment can be accommodated
- ☐ need varies -- sometimes can walk independently, other times must rely on personal assistance or mobility equipment
- ☐ other: _____

SECTION I - (Continued)

Hand/Arm Control

- ☐ has full range of reach (in front, overhead, up/down, at sides) from standing position
- ☐ has full range of reach from wheelchair in a seated position
- ☐ has impaired range of reach from standing position;

  impact: _____
- ☐ has impaired range of reach from wheelchair in a seated position;

  impact: _____
- ☐ has no range of reach capacity
- ☐ has full range of finger/hand movement and control
- ☐ has impaired range of finger/hand movement and control;

  impact: _____
- ☐ other: _____

Sensory impairment

- ☐ in vision: _____
- ☐ in hearing: _____
- ☐ to temperature/humidity: _____
- ☐ other: _____

Seizures

- ☐ No
- ☐ Yes, type (identify): _____

  frequency: _____

  intensity: _____

  since when? _____

SECTION II - FOSTER HOME SITE REVIEW

- Number of stories: _____
- Rooms on main floor: _____
- Rooms on any upper floor: _____
- Rooms on any lower floor: _____
- Does the existing entry require using steps? ☐ Yes ☐ No
- What would the prospective resident need to enter the home?
  - ☐ no assistance - can enter independently
  - ☐ repair of existing sidewalk, steps, routing, ramp _____
  - ☐ personal assistance with walking, climbing, opening the door
  - ☐ installation of a:
    - ☐ new sidewalk, steps or railing
    - ☐ ramp
    - ☐ mechanical lift
  - ☐ changes in the door:
    - ☐ doorway width
    - ☐ type or location of handles
    - ☐ lower threshold
  - ☐ a new or different type of personal mobility equipment (e.g. a bigger walker, a second cane)
- Once in the home, can the main floor be reached directly, or are there steps (e.g. a split entry) or a landing? ☐ Yes ☐ No
- Once in the home, could the prospective resident move and enter and use the following rooms?:

living room	☐ Yes	☐ No
dining area	☐ Yes	☐ No
his/her bedroom	☐ Yes	☐ No
bathroom	☐ Yes	☐ No

SECTION II - (Continued)

- Is access to the kitchen necessary or required? ☐ Yes ☐ No

  If "yes", explain why: _____

- Is access to any other area(s) necessary or required? ☐ Yes ☐ No

  If "yes", identify area(s): _____

  and explain why: _____

- Check below if and why the prospective resident couldn't move to and enter/use any of the following areas:

Access Problem(s)	Living Room	Dining Area	His/Her Bedroom	Bathroom	Kitchen (if required)	Other:
Can't approach room:						
. hallway too small						
. on another floor that can't be reached presently						
Problems at the door:						
. can't get through doorway						
. can't work the handles						
. threshold too high						
Can't move once inside:						
. not enough turning/ maneuvering space						
. problems with floor covering/surface						
. change in level within the area (e.g. "sunken floor")						
Can't reach or work:						
. light switches						
. outlets						
. windows						
. cupboards, closets						
. appliance						
. appliance controls						

SECTION II (Continued)

- Identify any problems with the following bathroom fixtures:

Access problem(s)	Tub or shower stall	Sink	Toilet	Medicine Cabinet/ Storage
Can't approach the fixture				
Can't transfer to the fixture				
Can't reach or work controls				
Must always have personal assistance to use				

- Does the prospective resident have a need for:
  - special signaling (e.g. visual smoke detector)? ☐ Yes ☐ No
  - temperature/humidity control? ☐ Yes ☐ No
- If there are any other major accessibility/safety needs not profiled, describe below: _____

SECTION III - ACCESSIBILITY AND SAFETY AGREEMENT

Persons who participated in completing this assessment

Adult foster home operator: _____

Prospective resident: _____

Prospective resident's legal representative: _____

Licensing worker: _____

Other persons contributing:

Name	Title or relation to prospective resident

SECTION III (Continued)

Priority accessibility problem areas (description)	Proposed accommodation (structural modification, equipment, personal assistance)	Date to be completed by

Assurances

I/we agree to accept the responsibilities designated above for making home modifications (either permanently or with portable equipment) or guaranteeing provision of necessary personal assistance so that the proposed placement of _____ can be finalized.

If any personal aids/appliances are also necessary to finalize this placement, I/we understand that the service agency will provide assistance in obtaining them.

Signed _____ Date _____

_____

(who) FH operator

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING ADULT FOSTER CARE SERVICES AND LICENSURE OF ADULT FOSTER HOMES, MINNESOTA RULES, PARTS 9555.5105 TO 9555.6265

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE ADOPTED WITHOUT PUBLIC HEARING

Notice of the Commissioner's proposed adoption of the above-entitled matter was published in the STATE REGISTER on Monday, October 6, 1986 at 11 S. R. 650 and was sent by United States mail on October 1, 1986 to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22. The Statement of Need and Reasonableness was prepared before the Notice of Proposed Adoption of a Rule Without a Public Hearing was mailed to all persons on the rulemaking mailing list and published in the STATE REGISTER and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The department received 10 comments and 12 requests for a public hearing. Therefore, the agency did not receive request for a public hearing from 25 or more persons which were not withdrawn.

No requests for Notice of Submission to the Attorney General Administration were received by the department.

Based on the comments and evidence in the record before the department, I find the following:

1. **Page 1, lines 23-27 (part 9555.5105, subpart 5).** Commentor Roma Maloy of Anoka County Social Services recommended adding the phrase "24-hour foster care if in the service plan" to the definition of "adult foster home". The department does not accept this recommendation because the definition of "supervision" which is included in the definition of "adult foster care" already provides for the discretion requested. "Supervision" is defined in part 9555.5105, subpart 37 (page 6, lines 3-8) and allows for less than the 24 hour presence of a caregiver. The level of supervision required must be outlined in the individual resident placement agreement and this agreement must coordinate with any individual service or individual habilitation plans if mandated by other rules. The extent of an adult's capability to be alone without supervision is determined prior to placement after consultation between the prospective resident, the operator, and the social worker (part 9555.5605, subpart 1, item D. (4).

2. **Page 1, lines 23-27, (part 9555.5105, subpart 5)** Commentor Mildred Prince recommended that there be a separate adult foster home rule for each target population. The department finds that it cannot accept the recommendation of Mrs. Prince. The population served by adult foster homes is defined in M. S. 245.782, subdivisions 2 and 14, as "functionally impaired adults." Adult foster homes are not meant to be specialized mini treatment facilities. They are homes that provide basic household and maintenance services, personal care, supervision and protection in a healthy and safe environment for adults who need a sheltered living situation. Those persons who may be frail elderly or have mental retardation share some common needs. It is these basic common needs that the foster home is designed to provide. The rule is intended to combine target populations. Residents of adult foster homes may need other services specific to the target population to which they belong. These may be provided in addition to adult foster care and are provided through various funding sources and administered under other rules.

3. **Page 1, lines 23-27, (part 9555.5105, subpart 5,)** Commentor William Hargis of the Minnesota Association of Health Care Facilities (MAHCF) recommended that the phrase "up to, and including four" be added to the definition of "adult foster home". The department accepts the suggestion though not the precise language for purposes of clarification. While the Revisor has indicated that the phrase "up to four" means "up to and including four," to avoid further misunderstanding, the department makes the following amendment as a nonsubstantial change to the proposed rules:

> Subp. 5. Adult foster home. "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides ~~up to four functionally impaired residents with~~ 24-hour foster care <u>to no more than four functionally impaired residents</u>.

4. **Page 2, lines 19-31, (part 9555.5105, subpart 14)** Commentor Barbara Kaufman of the Minnesota Association of Voluntary Social Service Agencies (MAVSSA) indicates that functional impairment is a separate category or condition from mental retardation, mental illness, chemical dependency or physical handicap. The department does not concur and finds that the definition as proposed is consistent with statute. A person who meets the definition of "functionally impaired" may also meet the definition of mental retardation or that of some other target population. The definition of functionally impaired is broad. It may include an adult in a specific target population. The criteria is not whether the individual meets current criteria defining mental retardation or a related condition, mental illness, chemical dependency or physical handicap. The criteria is whether the individual meets the definition of "functionally impaired" as defined in Minnesota Statute 245.782, subdivision 14. Minnesota Statute 245.782, subdivision 2, states that "person" for "purposes of ...adult foster care" is "an adult who is functionally impaired."

5. The department does not accept the general recommendation of the Minnesota Association of Health Care facilities that the rule not be applied to waivered services governed by parts 9525.1800-.1930. The proposed rules do not replace regulation governing board and lodging houses. Such facilities which include hotels, motels, resorts and bed and breakfasts, continue to be licensed by the Minnesota Department of Health. The rules as proposed do not replace residences called Supportive Living Residences which are currently certified by some county boards. Such facilities are not licensed or regulated by the state. As to the use of adult foster homes for the provision of waivered services, the department finds that the decision on whether to use an adult foster home for waivered service placement is already governed and permitted by adopted Minnesota Rules parts 9525.1800-.1930.

6. **Part 9555.5105, subparts 24 and 34** Commentor Kaufman of MAVSSA states that the relationship between the definitions of "local agency" and "service agency" is not clear. The local agency may also be the service agency if the resident is a social service client of the local agency, or in the case of an out-of-county placement, the local agency may be one county human services agency and the service agency may be another human service agency. If the local agency is providing community social services to a client, then the local agency would also be the service agency and would work with both the client and operator. To further clarify this issue the department adopts the following amendment:

> Page 4, line 17.
> Subp. 24. **Local agency.** "Local agency" means the county or multi-county social service agency governed by the county board or multi-county human services board of the county in which the adult foster home is located. <u>If the local agency is also providing foster care services to the resident, then the local agency is also the service agency defined in subpart 34</u>.

7. **Page 4, lines 30-33, (part 9555.5105, subpart 27)** Comments from Anoka and Hennepin Counties recommend that partnerships and corporations be ineligible for licensure as the operator of an adult foster home. By implication, the recommendation is that only "traditional mom and pop" homes be licensed and that there be no employer/employee relationship. The department does not accept this recommendation and finds that partnerships and corporations are not excluded from application as adult foster home operators under M.S. 245.782, subd. 13. While the adult foster home setting is perceived to be a "homelike" setting, it is not defined as "family" foster care. In some situations, the availability of unrelated live-in staff or rotating caregivers with special skills, may be the best situation for particularly difficult residents. For some functionally impaired adults it may be impossible to secure a residential placement with a typical family without subjecting that family to burnout.

8. **Page 5, lines 8 13 (part 9555.5105, subpart 31)** Commentor Kaufman of MAVSSA and Hargis of MAHCF questioned why the adult foster home must be in a single dwelling unit and whether a single dwelling unit means one half of a duplex or the entire building. As stated in the Statement of Need and Reasonableness, the purpose of the proposed rules is to develop standards which maximize the likelihood of a typical homelike setting for the adult. A dwelling unit, as defined by the Uniform Building Code which is incorporated by reference into the Minnesota State Building Code, is the typical living situation. An operator could not, under the rule as proposed, operate multiple apartments under a single license. Such a standard might lead to warehousing the very population the department is seeking to provide with a noninstitutional environment. Each residence ei. dwelling unit-"home", must be licensed. A single operator, though, is not restricted from holding more than one license. The state building code defines a "dwelling" as "any building or portion thereof which contains not more than two dwelling units." Thus a single family home and a "duplex" fall under the UBC definition of "dwelling." An apartment does not. The term" "dwelling unit" as defined in the UBC, section 405, is more precise and more broadly applicable in that it includes the individual living facility that is commonly referred to as a single family home, the individual apartment unit in an apartment building, as well as one half of a duplex. As defined, the term does not mean a single room in a lodging house or hotel.

9. **Page 6, lines 20-26 (part 9555.5305)** Commentor Kaufman of MAVSSA states that the purpose of the rule is "very narrow" because it does not include the provision of services or protection to adults. Nor is it consistent with part 9555.5705, Kaufman states. In response, the department finds that part 9555.5305 does include "protection" because the definition of "adult foster care" in part 9555.5105, subpart 3 (page 1, lines 12-18) includes protection. As to the provision of services to adults and consistency with part 9555.5705, the rule does not mandate that foster care services be provided by a county. It states that if the county elects to provide such services, this is the manner in which services are to be provided.

10. **Page 7, lines 1-36; and page 8, lines 1-18, part 9555.5415)** Commentor Kaufman of MAVSSA, questioned the delegation of licensing functions to local public agencies but not licensed private agencies. The department finds that the delegation of the specified licensing functions is consistent with current practice. There are no private agencies licensed for the placement of adults - just children. When promulgating a new rule the department believes it must move slowly when delegating licensing responsibilities. Inherent in the delegation is the need for established supervision and administrative practices and training. The proposed practice is consistent with delegated responsibilities in currently adopted rule parts 9555.5100 -.5400. The department authority to compel county public agencies to assist the commissioner is found in those statutes enumerated in the Notice of Intent to Adopt a Rule without a Public Hearing.

11. **Page 7, lines 25-35 and page 8, lines 1-18 (part 9555.5415, subpart 2)** The Minnesota Association of Health Care Facilities comments that part 9555.5415, subpart 2, item B is not clear as to who must be licensed. The department finds that the proposed rules define "adult foster care" in part 9555.5105, subpart 3. If such care is provided to a functionally impaired adult, then licensure is required. As to the comment that misdemeanor charges for unlicensed residences are an unrealistic penalty, the department finds that misdemeanor charges for unlicensed residences are mandated by the Public Welfare Licensing Act, M.S. 245.803, subdivision 1. The department concurs with the comment by Hennepin County that the county attorney may not prosecute misdemeanor charges in all cases. However, in most rural areas without a "city" attorney, the county attorney has jurisdiction. To clarify this matter, the department amends line 4, page 8 as follows:

> B. If no application is made to obtain a license within 30 days after the operator is told of the licensure requirements, the city or county attorney for the local agency with jurisdiction to bring misdemeanor charges shall be notified by the local agency.

12. **Page 8, lines 19-35 and page 9, lines 1-3 (part 9555.5505, subpart 2)** Mrs. Mildred Prince comments that training in more than the Vulnerable Adults Act is necessary. She suggests a 20 hour standard. The department finds that individualized training beyond the orientation specified in part 9555.5505, subpart 2, is mandated for caregivers. The mandated orientation training provides general information about standards to protect the health, rights and safety of residents as required by the rule and Vulnerable Adults Act; and information on the relationship of the adult foster home operator to the local agency and service agency, if any. Orientation does not deal with the specific needs of specific individuals or with the specific needs of target populations because the particular needs of future residents are unknown at the time of initial licensure. Adult foster home caregivers are required to attend 12 hours of training "designed to meet the needs of residents in care" (page 24, line 30) each year and six hours each year after five years of experience. This rule part was broadly drafted to provide the discretion for more specialized training to meet the individualized needs of a resident. In part 9555.5705, a social worker providing adult foster care services must provide consultation to the operator in meeting the resident's assessed needs. (Subp 3 B.) Subsequent training beyond the orientation is mandated and individualized.

13. **Page 13, lines 5 20, (part 9555.5705, subpart 2)** Commentor Mildred Prince expressed concern that not all residents of adult foster homes are required to have ongoing county case management services. The department finds that persons living in adult foster homes are not required to have ongoing case management services or a social worker assigned for the duration of their placement unless the person is receiving medical assistance waivered services. Such persons by law are those with mental retardation or a related condition or those 65 years of age or older and vulnerbable to nursing home placement. These requirements are specified in part 9555.5605, subpart 1, items A and B.

14. **Page 15, line 35,(part 9555.6125, subpart 3)** The Minnesota Assocciation of Health Care Facilities comments that the criminal history checks specified in part 9555.6125 will be expensive. The department concurs that this statutory requirement will create expense. M.S.245.783, subd.3 compels the commissioner to require such checks. MAHCF also comments that requiring a criminal record check of any household member over the age of 12 may violate this person's rights as a juvenile. The department finds that the rights of juveniles would not be violated because the information would not be made public. Subdivision 3 is broad in its applicability and refers to "all persons living in the household." The age break at 12 was proposed so the commissioner was not making criminal history checks on infants and children not likely to pose a threat of harm to a resident. After further review of the juvenile code, the commissioner finds that an age break at 13 for the Bureau of Criminal Apprehension check is more consistent with M.S. 260.125, since it is at this age that a juvenile may be referred to a local prosecuting attorney for action under statute and local ordinances. The department thus amends line 35, page 15:

household member over the age of ~~12~~ 13, and each owner, partner,

The department further adds the following clarifying amendment to the procedure on page 16, line 11 to ensure that the proper procedure is followed for the review of juvenile records as specified in M. S. 260.125.

In the case of a household member who is nine years of age but under the age of 14, the commissioner shall ascertain from the local court of jurisdiction whether the juvenile has been adjudicated as a delinquent for any of the acts specified in subpart 4, items D and E.

To further clarify that the qualification factors in subpart 4, item D also apply to adjudicated acts of delinquency and thus pose a threat of harm to residents, the department amends page 17, line 32, subpart 4, item D as follows:

D. Operators, caregivers, and household members must not have a conviction of, adjudication of delinquency for, have admitted to, or there be

To further clarify that the qualification factors in subpart 4, item E also apply to adjudiated acts of delinquency and thus pose a threat of harm to resident, the department amends page 18, line 4, subpart 4,item E as follows:

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction of, adjudication of delinquency for, or admission of

15. **Page 16, lines 16 to 26, (part 9555.6125, subpart 3, item B)** In response to the comment by AFSCME that this standard does not sufficiently distinguish between the traditional home setting and that where there may be an employee/employer relationship, the department submits the following amendment to part 9555.6125, subpart 3, item B. to clarify that social history information shall not be sought from employees at the time of initial licensure of an applicant who is not an individual.

> B. The applicant who is an individual shall provide social history information to the commissioner about each ~~caregiver and~~ household member. "Social history information" means information on education; employment; financial condition; military service; marital history; strengths and weaknesses of household relationships; mental illness; chemical dependency; hospitalizations; involuntary terminations of parental rights; the use of mental retardation services; felony, gross misdemeanor or misdemeanor convictions, arrests or admissions; and substantiated reports of neglect or abuse.

16. **Part 9555.6125, subpart 3, item A.** Commentor AFSCME states that state employees should not be subject to criminal history checks. The department finds that there is no basis for treating state employees as a separate class because:

a. state employees are not specifically excluded from M.S. 245.783, subd 3;
b. there is no reason to distinguish persons licensed as foster home operators or caregivers from state employees who are licensed as operators or who work as caregivers;
c. there is no reason to presume that state employees, as a class, are more or less likely to have a history of crime or abuse than other caregivers in the adult foster home setting; and
e. state employees do not have a right to employment in adult foster homes that is greater than the employment rights of other persons.

M S. 245.783, subdivision 3 refers to "all staff of a residential facility." If a state employee chooses employment in a residential facility, then there must be compliance with statute. The enforcement of M.S. 245.783, subd. 3 will not keep state employees, as a class, from employment in adult foster homes. Compliance with this qualification applies to all caregivers and employees.

17. **Page 17, line 33 (part 9555.6125, subpart 4, item D).** Commentor AFSCME asked for clarification of the term "substantial" evidence of resident abuse and "substantiated" reports of abuse. The department finds that "substantiated" is a term used by public social service professionals to determine if a complaint of abuse or neglect is sustained. To clarify who is responsible for the determination of whether a complaint is substantiated or not, the department amends page 16, line 15 as follows:

> substantial evidence, as determined by the local agency or department, indicating abuse or neglect as those terms

18. **Page 17, line 36 and page 18 lines 1-2 (part 9555.6125, subpart 4, Item D)** In response to the comment from Hennepin County to add "charges" to part 9555.6125, subpart 3, item A to address the issue of assaults and domestic abuse, the department generally accepts the intent of the recommendation and amends part 9555.6125, subpart 4, item D (page 16, line 16) as follows:

> D. Operators, caregivers and household members must not have a conviction of, have admitted to, or there be substantial evidence indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557, or assault as defined in Minnesota Statutes, sections 609.221 to 609.235, 609.322 to 609.342, 609.343, 609.344 or 609.345.

The department does not find that addition of the term "charges" to subpart 3, item A to be appropriate because the term is not specified in statute and the term "arrest" is a broader and more inclusive term. However, the intent of the recommendation and comment, to consider domestic abuse and assault charges, can be accomplished with the amendment to subpart 4, item D.

19. **Page 19, lines 4-8, (part 9555.6125, subpart 4, item I)** Hennepin County recommended addition of the standard that all household members be chemically free for at least 12 months or the foster home license be denied or revoked. The department does not accept the recommendation of Hennepin County pursuant to part 9555.6125, subpart 4, item I There is not sufficient information supplied as to who can or how it is to be determined that a person is chemically free for 12 months prior to licensure or relicensure. The disqualification provision as proposed comports with the position of commentor AFCSME that chemical use and abuse should be based on current behavior or job performance. Twelve months is an arbitrary time given the broad nature of substances and their use, abuse and treatment methods. If there is reasonable cause to believe that chemical use or abuse may be a negative licensing factor, subpart 5 provides for an evaluation of current use or abuse by a qualified person. Current behavior and treatment can be evaluated on an individual basis. The standard as proposed allows for disqualification based on previous use and abuse in that it states that prior use or abuse "has or may have" a negative effect on the health, rights, or safety of residents. The proposed disqualification factor has been reviewed and accepted by the department's chemical dependency division and found reasonable for the reasons specified in the Statement of Need and Reasonableness.

20. **Page 18, lines 13-15, (Part 9555.6125, subpart 4 item F)** AFSCME comments that the phrase "termination of parental rights" must be clarified. The department finds that this term is defined in Minnesota Statutes, section 260.221, paragraph (b) which is referenced on lines 14-15.

21. **Page 18, lines 3-12, (part 9555.6125, subpart 4, item E.)** Commentor AFSCME states that the list of crimes under Item E should be limited to those which indicate a present danger to vulnerable adults and further that all crimes are not weighted the same. The department agrees that all crimes may not be equal. Some may present a different kind or extent of threat than others. An overall general standard linking the mandated

criminal history check to social standards for unacceptable behavior is sought. Variance procedures on page 20, line 36 and page 21, lines 1-6, allow for a variance. The provision is the same as that developed and adopted for licensing rules governing family and group family day care homes. It recognizes that when one is balancing the protection of vulnerable persons against an individual's right to employment or licensure, the scale must be weighted in favor of the resident, rather than the prospective employee or applicant for licensure.

22. In response to the general comments by Maloy and Pattee about fire regulations, the department finds that the it is necessary to reference regulations under the jurisdiction of the fire safety experts to develop and enforce.

23. **Page 18, lines 19-36 (part 9555.6125, subpart 4, item H)** In response to the comment by MAVSSA on part 9555.6125, subpart 4, item H on the definition of "mental illness", the department finds that there is not a suitable definition of "mental illness" currently in statute other than that pertaining to commitment which is very narrow. The department however, amends this item to incorporate the definition in proposed department legislation that is similar to that also contained in adopted parts 9502.0315, subpart 19a. The definition not only applies measureable standards but allows for the additional functional determination of ability to provide care.

condition may be considered. "Mental illness" means ~~the inability to interpret reality realistically and the impaired functioning in primary aspects of daily living,~~ an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM) Ninth Revision (1980), code range 290.0 - 302.99 or 306.0 - 316 0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III, and that seriously limits a person's functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, and recreation. These publications are incorporated by reference and are not subject to frequent change. They are available in the state law library, Ford Building, 117 University Avenue, St. Paul, Minnesota 55155.

24. **Page 21, line 20, (part 9555.6125, subpart 12)** Hennepin County comments that this part needs clarification as to the change, sale or transfer of ownership. The department agrees that the relationship between items A and B could be clearer and amends line 21 as follows:

A. The license issued must not be transferred to another operator, building, or address, unless the provisions in Item B are followed first.

25. **Page 25, lines 2-3, (part 9555.6165, subpart 1)** The MAHCF questioned whether there is a discrepancy between the maximum number of residents and roomers allowed by the proposed rule and those provisions of the state fire code. The department does not find that there is a discrepancy between the licensed capacity established within the proposed rules and those safety and structural standards of the state fire code. The fire code has different requirements for different occupancy loads that relate to structure and safety. The DHS rule takes these codes into account as well as those recommendations on the establishment of a "homelike" setting, supervision needs and the program needs of the potential population to be served.

26. **Page 25, lines 4-6, (part 9555.6165, subpart 2)** Commentor Maloy asked why there are rules being used for SLAs which have a capacity of more than 4. The department finds that SLS (Supportive Living Services) (formerly called supportive living arrangements-SLA) are services which may be provided in any setting- a person's own home, a foster home, a group home, a board and lodging facility. Such services are provided to meet the individual needs of a resident. As to the comment by Maloy that provision must be made for "emergency" placements, the department finds that when establishing the licensed capacity for any facility, the operator must estimate the capacity for peak as well as normal use. If the operator of an adult foster home anticipates that the program will accommodate emergency placements, short term, or respite care placements, then such placements must be factored into the licensed capacity planned at the time of licensure.

27. **Page 25, line 34 and page 26, line 1, (part 9555.6175, subpart 3, item C)** The MAHCF comments that it may not be necessary to report immediately to a local agency whenever a resident suffers an injury treated by a physician. The department does not accept the recommended language that only injuries requiring hospitalization be reported since very serious injuries may be treated by a physician on an outpatient, in home or clinic basis. Conversely, not all injuries treated by a physician are serious. To clarify this issue the department thus amend line 1, on page 24 as follows:

> "Serious injury" means an injury that ~~is treated~~ requires treatment by a physician.

28. **Page 30, lines 12-13, (part 9555.6225, subpart 3)** Rock County commented that nothing is directly mentioned in this subpart as to who is responsible for ensuring that this provision is met. The department finds that it is necessary to clarify this standards and amends lines 12-13 as follows:

> Subp. 3. Physical examination of resident. The operator must ensure that each resident ~~must be~~ is examined by a physician no more than 30 days before or ...

29. **Page 32, line 36 and page 33, lines 1-12 (Part 9555.6225, subpart 8, item G)** Commentors Maloy and Hennepin County suggest that this provision be removed and that it is cumbersome. The department finds that the operator is not required to provide this service. If the operator chooses to provide this service, then the procedures, as proposed, are necessary and reasonable to ensure the health and safety of residents for the reasons stated in the Statement of Need and Reasonableness.

30. **Page 34, lines 28-35 and page 33, lines 1-13 (part 9555.6245, subparts 2 and 3)** Rock County comments that the agency's responsibility to provide this information is not clear. The department finds is does not concur with the conclusion of the commentor. The agency does not have the responsibility to provide this information. The operator has the responsibility to ensure that the information is in the record because the operator needs the information to ensure the health and safety of the resident in care. The agency is responsible to provide information to the operator for any services that are provided for an agency-developed individual service plan. However, not all residents may require such a plan. The information specified may be obtained from a variety of sources - the resident, the resident's legal representative, sources of medical care or specialized serices.

31. **Page 35, lines 18-25 (part 9555.6245, subpart 5)** The MAHCF comments that it may not always be possible for an operator to enter an incident report within two hours after knowledge of the occurrence. A notation could be done within that time frame but a complete investigative report may require further expert or medical opinion and may not be possible to file for 24-48 hours. The department has reviewed this comment with Barbara Doharty who administer's the Vulnerable Adult's Act. Her recommendation and the amendment thus proposed, is to extend the initial time mandated to enter into the record a notation on the occurrence of an incident from 2 to 8 hours. Line 24 is amended as follows:

> Incident reports must be entered into the resident's personal record by the ~~provider~~ operator within ~~two~~ eight hours after knowledge of the occurrence.

The department does not agree with the recommendation to extend the time limit for initial notation to 48 hours. The intent of the provision is to ensure an initial notation in the record of the incident. The sooner a notation is made the more likely pertinent details are noted. People forget and the more time that passes the less accurate the information that may be recalled. The department is not seeking a final investigative report within eight hours. Other pertinent information may follow after evaluation by experts. However, time must be mandated that is reasonable to allow the operator to deal with the immediate emergency at hand - such as transportation to a source of medical care - while at the same time ensuring that information on the incident is logged in while the information is still clear and fresh. The term "provider" is also amended to be consistent with definition used throughout the proposed rules.

32. **Page 37, line 25 (part 9555.6265, subpart 2, Item B)** Commentor Kaufman of MAVSSA asks what must be done with cash resources over $300. The department finds that the options available to a resident who cannot manage resources are those available to the public in general-namely to turn such resources over to a guardian or conservator.

33. **Page 37, line 35 and page 38, lines 1-5 (part 9555.6265, subpart 2, item E)** Commentor Joyce Haselmann of Ramsey County suggests that additional procedure be added to this item to deal with a resident's cash resources when the resident is transferred. The department accepts the suggestion for further clarification and amends item E as follows:

E. Upon the death or transfer of a resident, any cash resources of the resident must be surrendered to the resident or the resident's legal representative, or given to the executor or administrator of the estate ~~or, if none has been appointed, to the resident's legal representative~~ in exchange for an itemized receipt.

34. **Page 38, lines 21-30 (Effective date)** The Minnesota Association of Health Care Facilities commented that six months may not be enough time for existing certified operators to comply with all rule provisions. Additional costs must be met via renegotiation with the county of the rate. Such negotiations are conducted annually. A grandfather clause for existing facilities is also suggested. The department finds that the effective date as proposed is reasonable. There must be a balance between the needs of the certified operators for time to conform to adopted standards designed to ensure the health, safety and rights of functionally impaired residents, and the rights of functionally impaired residents to be cared for in a setting that is safe. Six months, at a minimum, and up to a year at the outside is viewed as a compromise between those parties that seek more time to make changes to existing facilities and programs that may require the expenditure of funds, and the needs of those parties who seek immediate remedy of a living situation that may not be healthy and safe for functionally impaired adults. Many of the homes currently certified have already been inspected for compliance with safety standards that are higher than those proposed in the rules. Current certification standards in Ramsey County, for example, are higher than those proposed. It should also be noted that the safety standards incorporated by reference have been in effect since 1976 as the standard for the state. Finally, an increase in the existing rate cannot be assured by an extension of the time for compliance since it is individiual county boards, and not the state, which establishes the rate for foster homes.

35. **Format comment.** In response to the comment on format by Rock County, the department is reformating part 9555.6155 by moving the part and renumbering it as part 9555.5515. The rule part more appropriately should be placed with other provisions relating to the administration of foster care and is not an obligation of the operator to meet for licensure. While this is clear in the rule part itself, its placement may lead to further confusion. Page 8, line 18 shall also be amended as follows:

~~part 9555.6155~~ 9555.5515

The department does not accept the formating recommendation of Rock County that the phrase "(agency requirement)" be inserted in those licensing portions of proposed rule parts 9555.6105 to 9555.6265. While it is true that the department's child foster home licensing rule mixes operator and agency standards, this is not a rule format direction the department wants to continue. Those standards that the operator must meet for licensure should be separate from administrative standards. The department believes this format makes it easier and less intimidating for the applicant for foster home licensure to understand what the licensing requirements are and reduces the overall lenghth of the rule that must be reproduced for applicability to the interested party.

36. **Department clarification/clean up amendments.** The department finds that the following amendments are necessary for clarification and to correct errors.

Page 5, line 18, (part 9555.5105, subpart 33) The term "provider" was used in earlier drafts of the rule and subsequently the term "operator" was proposed for the reasons specified in the Statement of Need and Reasonableness. However, this reference was inadvertently not changed.

"Roomer" means a household member who is not related to the ~~provider~~ operator and is not a resident or caregiver.

Page 28, line 32, (part 9555.6205, subpart 4) Consent is generally understood to be written consent. However, in this instance, that was not made absolutely clear.

Residents must mutually consent, in writing, to share a bedroom with another resident.

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 rules are supported by the data and views submitted to the Department 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 and properly administer them.

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.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265, (as modified) is adopted this 23rd day of February, 1987, pursuant to authority vested in me by Minnesota Statutes, section 256.01, subdivision 4(3); 256E.03, subdivision 2(c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, chapter 413, section 3 to be codified as 256E.08, subdivision 1(1), (2), (3), (4), and (6); 393.07, subdivision 2, 245.782, subdivisions 2, 6, and 14; 245.783, subdivision 1; and 245.802, subdivision 1.

for

Sandra S. Gardebring
Commissioner of Human Services

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
CENTENNIAL OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

DECLARATION OF COUNSEL

I, Julie Harris, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket code is .

Julie K. Harris

Julie Harris, Special Assistant Attorney General

Dated: 1/16/87

AN EQUAL OPPORTUNITY EMPLOYER

DHS-825
(6-84)

Exhibit R

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING ADULT FOSTER CARE SERVICES AND LICENSURE OF ADULT FOSTER HOMES, MINNESOTA RULES, PARTS 9555.5105 TO 9555.6265

AFFIDAVIT OF MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 1st day of October, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached notices by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to 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 hearing by this Department.

Nancy Storelee

Subscribed and sworn to before me

this 1 day of October, 1986

Louise J. Breidel

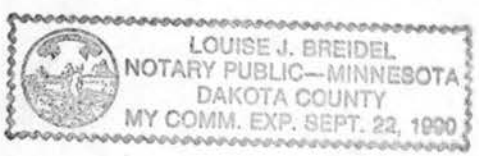

Exhibit cc

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. Authority to adopt the proposed licensing rules, parts 9555.5105 and 9555.6105 to 9555.6265 is contained in Minnesota Statutes 245.782, subdivisions 2, 6 and 14; 245.783, subdivision 1 ; and 245.802, subdivision 1.

Authority to adopt parts 9555.5105 to 9555.5705 is contained in Minnesota Statutes, sections 256.01, subdivision 4(3); 256E.03, subdivision 2(c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, chapter 413, section 3 to be codified as 256E.08, subdivision 1(1), (2), (3), (4), and (6); and 393.07, subdivision 2.

Persons interested in these rules shall have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part of subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on a rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, HEARINGS WILL BE HELD ON NOVEMBER 13 AND NOVEMBER 14, 1986, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

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

Jane Nelson
Rulemaking Division
Department of Human Services
658 Cedar Street, Fourth Floor
St. Paul, MN 55155
Telephone 612/297-1217

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 5, 1986.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

Minnesota Rules, parts 9555.5105 to 9555.6265 govern the delivery and administration of foster care services to persons who are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

Part 9555.5105 defines terms that are used throughout parts 9555.5105 to 9555.6265.

Part 9555.5205 indicates that parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to prospective residents by the county board.

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A copy of the proposed rules is available upon request for your review from:

Gwen Wildermuth
Social Services Division
Centennial Office Building, Fourth Floor
658 Cedar Street
St. Paul, MN 55155
Telephone 612/296-0311

A copy of the proposed rules may be viewed at the Department and any of the county welfare or human service agencies in the state of Minnesota.

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

The Department estimates that the total cost to all local public bodies will total less than $100,000 to implement the proposed rules in either of the first two years following the rules adoption. A copy of the fiscal note explaining the rules costs is available from Gwen Wildermuth.

If no hearing is required upon adoption of the proposed rules, the rules and the required supporting documents will be delivered to the Attorney General Administration for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Jane Nelson.

Date: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

SFT/2.0

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 5 of the State Office Building, 435 Park Avenue, St. Paul, Minnesota 55155, on November 13; and on November 14, 1986, in the Auditorium of the Brainerd Regional Human Services Center, Oak Street, Brainerd, Minnesota 56401. The hearings will commence at 9 a.m. and continue until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Richard Luis, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7610, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the Department and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the Department may indicate in writing whether there are amendments suggested by other persons which the Department is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9555.5105 to 9555.6265 govern the delivery and administration of foster care services to persons who are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

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The fiscal note prepared by the Department estimates that the proposed rules will require less than $100,000 in increased spending from state and local agencies over the next two years. A copy of the note is available from Gwen Wildermuth.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Gwen Wildermuth, Social Services Division, Fourth Floor, Centennial Office Building, 658 Cedar, St. Paul, Minnesota, 55155, 612/296-0311.

A copy of the proposed rule may be viewed at the Department and at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Gwen Wildermuth.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

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

Dated: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

SFTH/1.0

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING ADULT FOSTER CARE SERVICES AND LICENSURE OF ADULT FOSTER HOMES, MINNESOTA RULES, PARTS 9555.5105 TO 9555.6265

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 1st day of October, 1986.

Nancy Storlie

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING ADULT FOSTER CARE SERVICES AND LICENSURE OF ADULT FOSTER HOMES, MINNESOTA RULES, PARTS 9555.5105 TO 9555.6265

AFFIDAVIT OF ADDITIONAL MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 1st day of October, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices 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 parties:

.The 87 Minnesota County Human Services Boards
.Advisory Committee Members
.Other interested persons

Nancy Storelee

Subscribed and sworn to before me

this 1 day of October, 1986

Louise J. Breidel

LOUISE J. BREIDEL
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
MY COMM. EXP. SEPT. 22, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

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The fiscal note prepared by the Department estimates that the proposed rules will require less than $100,000 in increased spending from state and local agencies over the next two years. A copy of the note is available from Gwen Wildermuth.

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Dated: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

SFTH/1.0

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A HEARING

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Date: 9/15/86

LEONARD W. LEVINE, Commissioner
Department of Human Services

SFT/2.0

Additional mailing list for notification
Adult foster care and adult foster home licensure rule

Linda Molennar
Social worker
Norman County Social Service Center
County Office Building
Ada, Minnesota 56510

Mary Jo Vershay
Mental Health Division
Department of Human Services
4th Floor
COB

Kurt Strom
Minnesota Council for the Handicapped
Room 208
Metro Square Building
St. Paul, Minn.55155

Richard Jochem
Minnesota Mental Health Advocacy Coalition
265 Fort Road
St. Paul, Minn. 55102

Marie Knisely
8825 York Road
Bloomington, Mn. 55431

Barbara Kellet
Ramsey County Human Services Department
160 Kellogg Blvd.
Fifth Floor
St. Paul, MN. 55101

Diane Market
Box 248
Crookston, MN. 56716

Harvey Glommen
1048 87th Av. NE
Blaine MN 55434

Grace Nelson
Minnesota Senior Federation
7500 York Ave. S. #307
Edina, Mn 55435

Mary Bruns, Long Term Care
DHS Space Center
444 Lafayette Rd.
St. Paul, Minn. 55101

Gwenn Lovetang
Hennepin County Bureau of Social Services
Hennepin County Gov't Ctr 13-A
Minneapolis, MN 55487

Melissa Bulter
1247 St. Anthony Apt 213
St. Paul, MN 55104

Sue Abderholden
Association for Retarded Citizen-MN
3225 Lyndale Av. S.
Mpls, MN. 55408

Ralph Willenbring
22360 Circle Lane
Rogers MN 55374

Bea Jones
Anoka County Community Health and Social Services
Anoka County Courthouse
Fourth Floor
Anoka MN 55303

Barbara Kaufman
Minnesota Association of Voluntary Agencies
141 S. Griggs-Midway Bldg.
1821 University Av.
St. Paul, Minn. 55104

H. Michael Tripple
Minnesota Department of Health
717 Delaware St. SE
Minneapolis, MN 55440

Cheryl Nyhus
Department of Human Services
Licensing 6th Floor
Space Ctr. 444 Lafayette Rd
St. Paul, MN 55101

Julie Harris
Minnesota Social Services Supervisor's Assn
Olmsted County Dept of Social Services
515 2nd St. SW
Rochesteer, MN 55901

Gary Erickson
County Social Services Director's Association
Courthouse
Thief River Falls, MN 56701

Gerald Glomb
1365 Englewood, Suite 201
St. Paul, MN 55104

Dennis Holman
2499 N. Rice #220
Roseville, MN 55113

Jim Kelley
Discharge Planner
Courage Residence
3915 Golden Valley Road
Golden Valley, MN 55422

Thomas M. Patten, MSW
Program Director
Miller-Dwan Family Day Care Programk
3001 E. First St.
Duluth, MN 55812

Mary Tangren, supervisor
St. Louis County Social Services Dept
Government Services Center
320 E. 6th St., Suite 440
St. Paul, MN 55101

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Anne Henry
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Exhibit m

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Human Services

Proposed Permanent Rules Relating to Adult Foster Care Services and Licensure of Adult Foster Homes

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if 25 or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28.

Authority to adopt the proposed licensing rules, parts 9555.5105 and 9555.6105 to 9555.6265 is contained in Minnesota Statutes 245.782, subdivisions 2, 6 and 14; 245.783, subdivision 1 and 245.802, subdivision 1.

Authority to adopt parts 9555.5105 to 9555.5705 is contained in Minnesota Statutes 256.01, subdivision 4 (3); 256E.03, subdivision 2 (c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, Chapter 413, section 3 to be codified in Minnesota Statutes as 256E.08, subdivision 1 (1), (2), (3), (4) and (6); and 393.07, subdivision 2.

Persons interested in these rules shall have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on a rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, HEARINGS WILL BE HELD ON NOVEMBER 13 AND NOVEMBER 14, 1986, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

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

Jane Nelson
Rulemaking Division
Department of Human Services
658 Cedar Street, Fourth Floor
St. Paul, MN 55155
Telephone 612/297-1217

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on November 5, 1986.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

Minnesota Rules, parts 9555.5105 to 9555.6265 govern the delivery and administration of foster care services to persons who

are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

Part 9555.5105 defines terms that are used throughout parts 9555.5105 to 9555.6265.

Part 9555.5205 indicates that parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to prospective residents by the county board.

Part 9555.5305 indicates the purpose is to ensure proper assessment and notification of the availability of services.

Parts 9555.5405, 9555.5415, 9555.5505, 9555.5605, and 9555.5705 establish standards for foster home development, licensing assistance from the local agency, local agency orientation and training assistance, the assessment process and provision of adult foster care services to residents in adult foster homes.

Parts 9555.6105 to 9555.6265 specify the licensure standards for foster home operators and the licensing process for applicants. These parts set standards for the applicability and purpose of licensing, the application process, criteria and procedures for the study of the applicant and inspection of the residence, variances, negative licensing actions, resident's records, capacity limits, individual resident placement agreements, reporting, training, physical environment, health, water and food, program, resident records, resident rights, and cash resource assistance.

A copy of the proposed rules is available upon request for your review from:

Gwen Wildermuth
Social Services Division
Centennial Office Building, Fourth Floor
658 Cedar Street
St. Paul, MN 55155
Telephone 612/296-0311

A copy of the proposed rules may be viewed at the Department and any of the county welfare or human service agencies in the state of Minnesota.

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

The Department estimates that the total cost to all local public bodies will total less than $100,000 to implement the proposed rules in either of the first two years following the rules adoption. A copy of the fiscal note explaining the rules cost is available from Gwen Wildermuth.

If no hearing is required upon adoption of the proposed rules, the rules and the required supporting documents will be delivered to the Attorney General Administration for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Jane Nelson.

Dated: 9 September 1986

Leonard W. Levine, Commissioner
Department of Human Services

Notice of Hearing and Notice of Intent to Cancel Hearings if Fewer than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 5 of the State Office Building, 435 Park Avenue, St. Paul, Minnesota 55155, on November 13; and on November 14, 1986, in the Auditorium of the Brainerd Regional Human Services Center, Oak Street, Brainerd, Minnesota 56401. The hearings will commence at 9 a.m. and continue until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result

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of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SEAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between November 6, 1986 and November 12, 1986, at 612/296-0311.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Richard Luis, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7610, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period, the Department and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the Department may indicate in writing whether there are amendments suggested by other persons which the Department is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9555.5105 to 9555.6265 govern the delivery and administration of foster care services to persons who are functionally impaired and the licensure of operators of adult foster homes. The purpose of the rule parts is to ensure that persons seeking foster home placement receive a proper assessment of the need for adult foster care, are referred to licensed foster homes, and that the foster homes which are licensed ensure the health, safety, and rights of the residents in care.

Part 9555.5105 defines terms that are used throughout parts 9555.5105 to 9555.6265.

Part 9555.5205 indicates that parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to prospective residents by the county board.

Part 9555.5305 indicates the purpose is to ensure proper assessment and notification of the availability of services.

Parts 9555.5405, 9555.5415, 9555.5505, 9555.5605, and 9555.5705 establish standards for foster home development, licensing assistance from the local agency, local agency orientation and training assistance, the assessment process and provision of adult foster care services to residents in adult foster homes.

Parts 9555.6105 to 9555.6265 specify the licensure standards for foster home operators and the licensing process for applicants. These parts set standards for the applicability and purpose of licensing, the application process, criteria and procedures for the study of the applicant and inspection of the residence, variances, negative licensing actions, resident's records, capacity limits, individual resident placement agreements, reporting, training, physical environment, health, water and food, program, resident records, resident rights, and cash resource assistance.

Authority to adopt the proposed licensing rules, parts 9555.5105 and 9555.6105 to 9555.6265 is contained in Minnesota Statutes 245.782, subdivisions 2, 6 and 14; 245.783, subdivision 1 and 245.802, subdivision 1.

Authority to adopt parts 9555.5105 to 9555.5705 is contained in Minnesota Statutes 256.01, subdivision 4 (3); 256E.03, subdivision 2 (c) and (d); 256E.05, subdivision 1; Minnesota Laws 1986, Chapter 413, section 3 to be codified in Minnesota Statutes as 256E.08, subdivision 1 (1), (2), (3), (4) and (6); and 393.07, subdivision 2.

The fiscal note prepared by the Department estimates that the proposed rules will require less than $100,000 in increased spending from state and local agencies over the next two years. A copy of the fiscal note explaining the rule costs is available from Gwen Wildermuth.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Gwen Wildermuth, Social Services Division, Fourth Floor, Centennial Office Building, 658 Cedar, St. Paul, Minnesota, 55155, 612/296-0311.

A copy of the proposed rule may be viewed at the Department and at any of the county welfare or human service agencies in the state of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Gwen Wildermuth.

NOTICE; Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

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

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

Dated: 9 September 1986

Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed (all new material)

9555.5105 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9555.5105 to 9555.6265 the following terms have the meanings given them.

Subp. 2. **Adult.** "Adult" means a person at least 18 years of age.

Subp. 3. **Adult foster care.** "Adult foster care" means the provision of food, lodging, protection, supervision, and household services to a functionally impaired adult in a residence and may also include the provision of personal care, household and living skills assistance or training, medication assistance under part 9555.6225, subpart 8, and assistance safeguarding cash resources under part 9555.6265.

Subp. 4. **Adult foster care services.** "Adult foster care services" means those community social services in parts 9550.0010 to 9550.0092 that are provided to residents or prospective residents of adult foster homes.

Subp. 5. **Adult foster home.** "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides up to four functionally impaired residents with 24-hour foster care.

Subp. 6. **Applicant.** "Applicant" means the operator seeking a license to operate an adult foster home.

Subp. 7. **Building official.** "Building official" means a person appointed in accordance with Minnesota Statutes, section 16B.65, to administer the state building code or the building official's authorized representative.

Subp. 8. **Caregiver.** "Caregiver" means an adult who meets the qualifications in part 9555.6125, subpart 4, and gives care to a resident in an adult foster home.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

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Subp. 10. **County board.** "County board" means the county board of commissioners in each county. When a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board.

Subp. 11. **County of financial responsibility.** "County of financial responsibility" means the county responsible for paying for foster care services for a resident under Minnesota Statutes, section 256E.08, subdivision 7.

Subp. 12. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 13. **Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.011, to administer and enforce the Minnesota Uniform Fire Code or the fire marshal's authorized representative.

Subp. 14. **Functionally impaired.** "Functionally impaired" means a person who has:

A. substantial difficulty carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working; or

B. a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

Subp. 15. **Health authority.** "Health authority" means the designated representative of the local board of health organized under Minnesota Statutes, chapter 145, to enforce public health codes.

Subp. 16. **Household member.** "Household member" means any person living in the adult foster home more than 30 consecutive calendar days in any 12-month period who is not a resident.

Subp. 17. **Household services.** "Household services" means activities taught to or performed by a caregiver for a resident such as cooking, cleaning, budgeting, and other household care or maintenance tasks.

Subp. 18. **Individual service plan.** "Individual service plan" means the written plan agreed upon and signed by the county of financial responsibility and the resident or resident's legal representative for the provision of social services under part 9550.0090. For persons with mental retardation or a related condition, it means the plan agreed upon and signed under part 9525.0075.

Subp. 19. **Individual resident placement agreement.** "Individual resident placement agreement" means the written document specifying the terms for provision of foster care to an adult that is developed under part 9555.5705 for persons receiving services under part 9525.0075 or 9550.0090 or under part 9555.6167 for persons not receiving community social services or services for persons with mental retardation or a related condition. The individual resident placement agreement must:

A. describe the reason for placement;

B. describe what the operator must provide in the areas of lodging, food, protection, household or living skills training or assistance, personal care assistance, assistance safeguarding cash resources, transportation, residence accessibility modifications, medication assistance, and supervision;

C. describe who is financially responsible for the payment of the foster care provided by the operator;

D. describe any other community health and social services that the operator will assist in providing;

E. coordinate with the contents of the individual habilitation plan developed under parts 9525.0015 to 9525.0165 for persons with mental retardation or a related condition; and

F. coordinate with the individual service plan developed under part 9525.0075 or 9550.0090.

Subp. 20. **Legal representative.** "Legal representative" means a person appointed by the court as a guardian or conservator of an adult under Minnesota Statutes, sections 525.539 to 525.6198 or chapter 252A.

Subp. 21. **License.** "License" means a certificate issued by the commissioner authorizing the operator to give specified services for a specified period in accordance with parts 9555.6105 to 9555.6265 and Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2. License includes a provisional license issued to an operator who is temporarily unable to comply with the requirements for a license.

Subp. 22. **Licensed capacity.** "Licensed capacity" means the maximum number of functionally impaired adults who may receive foster care in the adult foster home at any one time.

Subp. 23. **Living skills assistance.** "Living skills assistance" means activities taught or performed to assist the resident to use services, transportation, recreation, and social opportunities available in the community.

Subp. 24. **Local agency.** "Local agency" means the county or multi-county social service agency governed by the county board or multi-county human services board of the county in which the adult foster home is located.

Subp. 25. **Medication.** "Medication" means a prescription substance taken internally, applied externally, or injected to prevent or treat a condition or disease, heal, or relieve pain.

Subp. 26. **Minnesota Uniform Fire Code.** "Minnesota Uniform Fire Code" means those codes and regulations adopted by the fire marshal under Minnesota Statutes, section 299F.011 and parts 7510.0200 to 7510.3000.

Subp. 27. **Operator.** "Operator" means the individual, partnership, corporation, or governmental unit licensed by the department and legally responsible for the operation of an adult foster home.

Subp. 28. **Personal care.** "Personal care" means assistance by a caregiver with or teaching of skills related to activities of daily living such as eating, grooming, bathing, and laundering clothes.

Subp. 29. **Protection.** "Protection" means compliance with the Vulnerable Adults Act.

Subp. 30. **Related.** "Related" means any of the following relationships by marriage, blood, or adoption: spouse, parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, grandchild, child, niece, and nephew.

Subp. 31. **Residence.** "Residence" means the single dwelling unit in which foster care is provided with complete, independent living facilities for one or more persons. As defined in section 405 of the Minnesota State Building Code, the residence has permanent provisions for living, sleeping, cooking, eating, and sanitation.

Subp. 32. **Resident.** "Resident" means a functionally impaired adult residing in an adult foster home and receiving foster care.

Subp. 33. **Roomer.** "Roomer" means a household member who is not related to the provider and is not a resident or caregiver.

Subp. 34. **Service agency.** "Service agency" means the public or private agency designated by the county of financial responsibility with the responsibility to provide the foster care services in parts 9555.5105 to 9555.5705.

Subp. 35. **Social worker.** "Social worker" means a person designated by the local agency or service agency of the county of financial responsibility with credentials meeting the minimum requirements under the Minnesota Merit System classification for social worker or a county personnel system equivalent under Minnesota Statutes, section 375.56-71; Laws of Minnesota 1965, chapter 855; and Laws of Minnesota 1974, chapter 435, article 3, who is responsible for coordinating a prospective resident's initial assessment and placement in part 9555.5605 the development of the individual resident placement agreement for those persons with an individual service plan.

Subp. 36. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of administration under chapter 1300 and Minnesota Statutes, section 16B.59.

Subp. 37. **Supervision.** "Supervision" means:

A. oversight by a caregiver as specified in the individual resident placement agreement and daily awareness of a resident's needs and activities; and

B. the presence of a caregiver in the residence during normal sleeping hours.

Subp. 38. **Variance.** "Variance" means written permission by the commissioner for an applicant or operator to depart from the provisions of parts 9555.6105 to 9555.6265 if equivalent alternative measures are provided to ensure the health, safety, and rights of a resident.

Subp. 39. **Vulnerable Adults Act.** "Vulnerable Adults Act" means Minnesota Statutes, section 626.557.

9555.5205 APPLICABILITY.

Parts 9555.5105 to 9555.5705 govern the administration and provision of adult foster care services to residents or prospective residents of adult foster homes by the county board.

9555.5305 PURPOSE.

The purpose of parts 9555.5105 to 9555.5705 is to ensure that a resident or prospective resident of an adult foster home receives an assessment of need for adult foster care, is notified about adult foster care services that are available, and consultation, assistance, and information are provided to applicants or operators of adult foster homes.

9555.5405 FOSTER HOME DEVELOPMENT.

The local agency shall implement an annual adult foster home recruitment plan specifying a method and timetable for recruiting operators to meet the county's adult foster care needs if adult foster care services to residents or prospective residents of adult foster homes are specified by the county board in the community social services plan developed under parts 9550.0010 to 9550.0092.

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9555.5415 LICENSING ASSISTANCE.

Subpart 1. **Assistance.** The local agency shall tell persons seeking information about adult foster home licensure of the standards in parts 9555.6105 to 9555.6265. The local agency shall offer consultation, assistance, and information in accordance with parts 9555.6105 to 9555.6265. The local agency shall:

A. supply the applicant with the department application form, a copy of parts 9555.5105 and 9555.6105 to 9555.6265, and the department forms needed to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265;

B. stamp and date a signed and completed department application form on the date of receipt;

C. accept and process applications for licensure and recommend licensure or negative licensing actions to the department;

D. conduct the inspection of the residence and study of the applicant in accordance with parts 9555.5105 and 9555.6105 to 9555.6265; and

E. notify the local zoning administrator in the jurisdiction in which the residence is located at least 30 days prior to the initial issuance date of a license. The date the local zoning administrator was notified must be noted on the application form.

Subp. 2. **Unlicensed residences.** When the local agency has reasonable cause to believe a residence required to be licensed under parts 9555.6105 to 9555.6265 is operating without a license, the local agency must verify the home's license status following the procedures in items A and B.

A. The local agency shall verify the home's license status within five working days. If the operator is not licensed to operate an adult foster home, the local agency shall contact the person providing adult foster care in the residence and tell the person of the licensing requirements in Minnesota Statutes, sections 245.781 to 245.812 and parts 9555.5105 and 9555.6105 to 9555.6265.

B. If no application is made to obtain a license within 30 days after the operator is told of the licensure requirements, the county attorney with jurisdiction to bring misdemeanor charges shall be notified by the local agency. The operator of a residence required to be licensed under parts 9555.5105 and 9555.6105 to 9555.6265 that is operating without a license is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.

C. A complaint concerning violations of parts 9555.6105 to 9555.6265 shall be investigated by the local agency within 14 working days of receipt, except complaints concerning abuse or neglect, which shall be investigated in accordance with parts 9555.7100 to 9555.7700. Substantiated complaints about an operator licensed under parts 9555.5105 and 9555.6105 to 9555.6265 shall be recorded in the record on the residence in part 9555.6155.

9555.5505 LOCAL AGENCY ORIENTATION AND TRAINING ROLE.

Subpart 1. **Local agency role.** The local agency shall ensure that:

A. the operator and caregivers comply with the orientation and training requirements in part 9555.6185; and

B. the orientation and training in part 9555.6185 is available within the county or within 50 miles of the adult foster home at times convenient to foster home operators.

Subp. 2. **Orientation.** The local agency shall provide three hours of orientation to a foster home operator and caregivers prior to the placement of the first resident following initial licensure. The orientation training must include training on requirements of the Vulnerable Adults Act contained in Minnesota Statutes, section 626.557; parts 9555.8000 to 9555.8500; and the general provisions of parts 9555.5105, and 9555.6105 to 9555.6265.

Subp. 3. **Information.** The local agency shall identify sources of training that meet the standards in part 9555.6185 and notify the operator of a licensed residence in the county at least once a year of the training opportunities available.

9555.5605 ASSESSMENT.

Subpart 1. **Assessment.** A social worker from the local agency or service agency of the county of financial responsibility shall ensure that a person seeking adult foster home placement has an assessment to determine the person's need for adult foster care.

A. An adult who has or may have a diagnosis of mental retardation or a related condition shall be assessed under part 9525.0065.

B. An adult requesting adult foster care services under parts 9550.0010 to 9550.0092 shall be assessed under item D and part 9550.0090.

C. An assessment performed under Minnesota Statutes, section 256B.091 shall satisfy the provisions of item D.

D. An assessment coordinated by a social worker and review of any information gathered from professionals must be made of the adult's:

(1) ability to manage activities of daily living;

(2) physical health, including impairments of mobility, sight, hearing, and speech;

(3) intellectual functioning and mental health, including impairments of judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life;

(4) need for supervision;

(5) need for protection;

(6) need for assistance in safeguarding cash resources;

(7) need for medication assistance;

(8) employability and vocational skills;

(9) need for family and community involvement; and

(10) need for community, social, or health services.

Subp. 2. **Mobility access assessment.** Before placement, or after placement if the local agency has reasonable cause to believe a mobility access, seizure, or disability problem has developed, the social worker shall determine, in consultation with the prospective resident and the resident's representative and any other person knowledgeable about the resident's needs, whether accessibility aides or modifications to the residence are needed. The need for accessibility aides or modifications to the residence shall be determined for persons with regular seizures or physical disabilities using an accessibility checklist approved by the commissioner in consultation with persons knowledgeable about the accessibility and mobility needs of the resident and persons knowledgeable about accessibility modifications to residential occupancies. A person confined to a wheelchair must be housed on a level with an exit directly to grade.

Subp. 3. **Placement standards.** A person shall be appropriate for adult foster home placement if the person:

A. is an adult;

B. is functionally impaired;

C. has requested, or the adult's legal representative has requested, foster care placement;

D. has demonstrated a need for foster care based on the assessment in subpart 1;

E. does not require continuous medical care or treatment in a facility licensed for acute care under chapter 4640; and

F. has been approved for placement under parts 9525.0015 to 9525.0145, if the adult has mental retardation or a related condition.

Subp. 4. **Placement and consumer choice.** A person who is appropriate for adult foster home placement, and the person's legal representative must be allowed to choose among between the homes that the social worker determines would meet the person's foster care needs.

Subp. 5. **Matching.** When referring the adult seeking foster care to a licensed adult foster home, the social worker shall match the licensing study information and the capacity of the adult foster home program developed by the operator under part 9555.6235 with the assessed needs of the functionally impaired adult determined under part 9555.5605, subparts 1 and 2.

Subp. 6. **Preplacement visit.** The social worker shall arrange for the functionally impaired adult to visit the prospective adult foster home before placement, except in cases of emergency placement or placement for less than 30 consecutive days. Before placement, the following shall be discussed with the operator:

A. the needs of the functionally impaired adult as determined by the assessment in part 9555.5605, subparts 1 and 2;

B. the foster care that must be provided by the operator to the adult seeking placement;

C. the adult's need for additional community health and social services and the operator's responsibility in assisting with provision of or access to those services; and

D. the financial arrangements to pay for the adult foster care.

9555.5705 PROVISION OF ADULT FOSTER CARE SERVICES TO RESIDENTS OF ADULT FOSTER HOMES.

Subpart 1. **Adult foster care service.** When the county board elects to provide adult foster care services under parts 9550.0010 to

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9550.0092, the county board shall offer adult foster care services to the residents or prospective residents of an adult foster home. Adult foster care services may be provided directly by the county of financial responsibility, or by the service agency under a written agreement with the county of financial responsibility, or by another agency under contract to the county of financial responsibility.

Subp. 2. **Development of individual resident placement agreement.** If the resident or prospective resident requests and receives adult foster care services, then the service agency shall develop, and the resident, resident's legal representative, and the operator shall agree on and sign an individual resident placement agreement as defined in part 9555.5105, subpart 19. The agreement must be signed within 30 days of placement and be coordinated with the adult's individual service plan as defined in part 9555.5105, subpart 18. The service agency shall give a copy of the individual service plan to the operator. If the resident is appropriate for adult foster home placement and does not require adult foster care services under parts 9550.0010 to 9550.0092, the individual resident placement agreement shall be developed by the operator, resident, and resident's legal representative under part 9555.6167.

Subp. 3. **Placement review for residents with an individual service plan.** The service agency assigned to a resident in an adult foster home with an individual service plan must:

A. visit the resident and operator within 30 days of placement to confirm the appropriateness of the placement;

B. provide consultation services to the operator in meeting the resident's assessed needs;

C. provide a telephone number where caregivers and the resident or resident's legal representative may call for emergency social service assistance 24 hours a day; and

D. assist in developing the individual abuse prevention plan for the resident under parts 9555.7100 to 9555.7700.

9555.6105 APPLICABILITY AND PURPOSE.

Parts 9555.5105 and 9555.6105 to 9555.6265, as authorized by Minnesota Statutes, sections 245.781 to 245.812, govern the licensure of the operator of an adult foster home. The purpose of parts 9555.5105 and 9555.6105 to 9555.6265 is to establish procedures and standards for licensure and operation of an adult foster home so minimum levels of care are provided and the health, safety, and rights of residents are assured.

9555.6115 LICENSE APPLICATION PROCESS.

A license to operate an adult foster home must be obtained from the department under items A to E.

A. Application for a license must be made on the application form issued by the department and must be made in the county where the adult foster home is located.

B. The applicant must be the individual or the authorized representative of the partnership, corporation, or government unit that will be the operator of the adult foster home.

C. Separate licenses are required for residences located at separate addresses, even if the residences are to be operated by the same operator.

D. An application for licensure is complete when the commissioner determines that the department forms and documentation needed for licensure, the inspection, zoning, evaluation, and investigative reports, documentation and information required to verify compliance with parts 9555.5105 and 9555.6105 to 9555.6265 have been submitted by the applicant. The commissioner shall stamp and date a signed and completed department application form on the date of receipt.

9555.6125 LICENSING STUDY.

Subpart 1. **Access to residence.** The applicant shall give the commissioner access to the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265. Access shall include the residence to be occupied as an adult foster home; any adjoining land or buildings owned or operated by the applicant or operator in conjunction with the provision of adult foster care and designated for use by a resident; noninterference in interviewing caregivers, roomers, or household members; and the right to view and photocopy the records and documents specified in parts 9555.6235 and 9555.6245. The commissioner shall have access to the residence at any time during the period of licensure to determine whether the operator is in compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

Subp. 2. **Inspections.** The residence must be inspected by a fire marshal within 12 months before initial licensure to verify that the residence is a dwelling unit within a residential occupancy as defined in section 9.117 of the Minnesota Uniform Fire Code and that the residence complies with the fire safety standards for that residential occupancy contained in the Minnesota Uniform Fire Code. A home safety checklist, approved by the commissioner, must be completed by the operator and the commissioner before licensure each year a fire marshal inspection is not made. The residence shall be inspected according to the licensed capacity specified on the initial application form. If the commissioner has reasonable cause to believe that a potentially hazardous condition may be present or the licensed capacity is increased to four residents, the commissioner shall request a subsequent inspection and written report by a fire marshal to verify the absence of hazard. Any condition cited by a fire marshal, building official, or health authority as hazardous

or creating an immediate danger of fire or threat to health and safety must be corrected before a license is issued or renewed by the department.

Subp. 3. **Study of applicant.** A study of the applicant shall be conducted by the commissioner under items A to D.

A. The applicant shall provide the commissioner with a completed, signed form as required by Minnesota Statutes, section 245.783, subdivision 3, for the disclosure of arrest, conviction, and criminal history records for each caregiver, household member over the age of 12, and each owner, partner, board member, and employee who will be involved in the operation of the adult foster home. The form must disclose the person's full name and all previous or additional names, date of birth, the specific nature of information to be disclosed, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attorney, and sheriff or chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record. If the person has not resided in the state for five years, the form shall also be sent to a national criminal history repository.

B. The applicant shall provide social history information to the commissioner about each caregiver and household member. "Social history information" means information on education; employment; financial condition; military service; marital history; mental illness; chemical dependency; hospitalizations; involuntary terminations of parental rights; the use of mental retardation services; felony, gross misdemeanor or misdemeanor convictions, arrests or admissions; and substantiated reports of neglect or abuse.

C. If the applicant is an authorized representative of a partnership, corporation, or governmental unit, the applicant shall make available and maintain the following information:

(1) the names and addresses of the owners and board members;

(2) the name, address, and physical health report of the employees who are involved in the operation of the adult foster home;

(3) an organization chart;

(4) personnel policies;

(5) the personnel records of persons in subitem (2) and verification that they comply with the qualifications in subpart 4;

(6) job descriptions of persons in subitem (2); and

(7) the staffing pattern to be used in the adult foster home.

D. The applicant shall provide the commissioner with the names of three persons not related to the applicant who can supply information about the applicant's ability to operate an adult foster home.

Subp. 4. **Qualifications.** Operators, caregivers, and household members must meet the qualifications in items A to H.

A. Operators and caregivers must be adults.

B. Household members and caregivers must be free of reportable communicable disease as named in parts 4605.7000 to 4605.7800. With the exception of caregivers providing less than 30 days of care per year, the household member and caregiver must provide the commissioner with a physician's statement showing the absence of reportable communicable disease and any physical condition that would prevent the caregiver from being able to provide foster care to a resident. The physician's report must be based on an examination of the individual within the 12 months before application for licensure. Caregivers shall provide the commissioner with a physician's report at least once every five years after initial licensure.

C. Operators, caregivers, and household members must agree to disclose the arrest, conviction, and criminal history information specified in subpart 3.

D. Operators, caregivers, and household members must not have a conviction of, have admitted to, or there be substantial evidence indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557.

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction or admission of any crime listed in Minnesota Statutes, sections 152.09, 152.096, 152.097, 609.185 to 609.345, 609.365, 609.377, 609.378, 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, 609.561 to 609.563, 609.582, 609.59, 609.625, 609.63, 609.687, 609.71, 609.713, 609.821, 617.23, 617.246, other than those listed in item D, or the same or similar crime listed in the laws of another state or of the United States or of another country.

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F. Caregivers must not have had parental rights terminated under Minnesota Statutes, section 260.221, paragraph (b), within the past five years.

G. Operators and caregivers must not have a diagnosis of mental retardation or a related condition and be receiving services under parts 9525.0015 to 9525.0145.

H. Caregivers and household members must not have a mental illness or condition as diagnosed by a psychiatrist or licensed psychologist that has documented behaviors that the commissioner determines would jeopardize the health, rights, or safety of residents. Past history of a mental illness or condition may be considered. "Mental illness" means the inability to interpret reality realistically and the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation.

I. Caregivers and household members must not abuse prescription drugs or use controlled substances as named in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the health, rights, or safety of residents.

Subp. 5. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term of the adult foster home, a physical, mental health, chemical dependency, or criminal history evaluation of the operator, caregiver, or household member if the commissioner has reasonable cause to believe that any of the qualifications or requirements in items A to I have not been met or that the operator or any caregiver cannot care for a resident. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation.

Subp. 6. **Zoning.** At least 30 days before the initial license issuance date, the commissioner shall notify the local zoning administrator in the jurisdiction where the residence is located of the license application.

Subp. 7. **Period of licensure; nontransfer.** A license shall be issued by the commissioner for up to one year when the applicant complies with parts 9555.6105 to 9555.6265. A license is not transferable to another operator or residence.

Subp. 8. **Provisional license.** An applicant for initial licensure may be granted a provisional license by the commissioner for up to one year if the laws and rules cannot be complied with immediately, and if the deviations from parts 9555.6105 to 9555.6265 do not threaten the health, rights, or safety of a resident. All deviations must be corrected within the time specified by the commissioner but not exceeding one year. Failure to correct deviations within the stated time shall be cause for revocation of a license or a fine or both.

Subp. 9. **Variance procedure.** An applicant or operator may request a variance from compliance with parts 9555.5105 and 9555.6105 to 9555.6265. A request for a variance must comply with and be handled according to the following procedures:

A. An applicant or operator must submit a written request for a variance to the commissioner. The request must include:

(1) the sections or parts 9555.6105 to 9555.6275 with which the applicant or operator cannot comply;

(2) the reasons why the applicant or operator needs to depart from the specified sections;

(3) the period for which the applicant or operator requests a variance; and

(4) the specific equivalent alternative measures that the applicant or operator will provide so the health, rights, and safety of residents are ensured if the variance is granted.

B. An applicant or operator must submit to the commissioner written approval from a fire marshal of the alternative measures identified to ensure the safety of residents when a variance of part 9555.6125, subpart 2, is requested.

C. An applicant or operator must submit to the commissioner written approval from a health authority of the alternative measures identified to ensure the health of residents when a variance of parts 9555.6225 and 9555.6215 is requested.

Subp. 10. **Variance standard.** A variance may be granted if:

A. the variance is submitted in accordance with subpart 9;

B. the commissioner does not have reasonable cause to believe the health, rights, or safety of the residents will be threatened;

C. the variance would not be contrary to a standard required by Minnesota Statutes; and

D. a request for variance to subpart 4, item E, has clear and convincing evidence presented by the operator, caregiver, or household member that no threat or harm whatsoever will result to the residents due to the granting of the variance. The commissioner shall consider the nature of the crime committed and amount of time which has elapsed without a repeat of the crime.

Subp. 11. **License terms.** A license, whether regular or provisional, must show:

A. the licensed capacity of the adult foster home;

B. the expiration date of the license and address of the residence;

C. the name and address of the operator;

D. that the operator is licensed under parts 9555.5105 and 9555.6105 to 9555.6265; and

E. the provisional status of the license, if applicable.

Subp. 12. **Change in license terms.** The following shall apply to changes in the terms of licensure:

A. The license issued must not be transferred to another operator, building, or address.

B. The operator must notify the commissioner and the studies in part 9555.6125 must be completed:

(1) before the operator moves the residence to another building or address;

(2) when there is an addition of any adult or child who is or will be a roomer, resident, household member, or caregiver;

(3) when the operator makes structural changes to the residence that require a building permit from the local jurisdiction; or

(4) before the operator changes, sells, or transfers ownership or responsibility for the operation of the residence.

Subp. 13. **License renewal.** Before the expiration of a license, the commissioner must conduct a study of the operator and an inspection of the residence to determine compliance with parts 9555.5105 and 9555.6105 to 9555.6265 at least once every 12 months to determine whether a new license shall be issued.

9555.6145 NEGATIVE LICENSING ACTIONS.

Subpart 1. **Definition.** For the purposes of this part, "negative licensing action" means denial of application for licensure, revocation, probation, suspension, or immediate suspension of an existing license.

Subp. 2. **Procedures.** In accordance with Minnesota Statutes, section 245.801, failure to comply with parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure is grounds for a negative licensing action. If the local agency recommends a negative licensing action, the local agency shall notify the department and the department shall determine if the standards in parts 9555.5105 and 9555.6105 to 9555.6265 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall follow the procedures in Minnesota Statutes, section 245.801, and notify the applicant or operator by certified mail, unless personal service is required by subpart 7. The notice of negative licensing action must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed negative licensing action. The notice of negative licensing action must inform the applicant or operator of the right to appeal the decision. The applicant or operator shall have an opportunity for a hearing under Minnesota Statutes, sections 14.57 to 14.70.

Subp. 3. **Denial.** If the commissioner denies an application for licensure, the applicant must tell the commissioner of the applicant's appeal of the decision within 20 days after receipt of the notice of denial.

Subp. 4. **Revocation, probation, or suspension.** If the commissioner revokes a license, makes a license probationary, or suspends a license, the operator must tell the commissioner of the operator's appeal of the decision within ten days after receipt of the notice of revocation, probation, or suspension.

Subp. 5. **Immediate suspension.** If the commissioner finds that the health, safety, or rights of the residents in care are in imminent danger, the commissioner shall immediately suspend the license and notify the local agency to remove the residents. The operator shall be notified by personal service and must tell the commissioner of the operator's appeal of the decision within five days after receipt of the notice of immediate suspension. The appeal does not stay the decision of the commissioner to immediately suspend the license.

Subp. 6. **Correction orders and fines.** If the commissioner finds that the operator does not comply with parts 9555.5105 and 9555.6105 to 9555.6265, the commissioner shall issue a correction order under Minnesota Statutes, section 245.805, and the operator may be subject to a fine for each uncorrected deficiency.

Subp. 7. **Notice of negative licensing action.** At the time the commissioner notifies the operator of a proposed negative licensing action, the commissioner shall notify residents and residents' legal representatives of the proposed negative licensing action and of the operator's right to appeal. The notification procedures in Minnesota Statutes, section 626.557, subdivision 10, paragraph (a), shall be followed in situations alleging abuse or neglect of residents.

Subp. 8. **Reapplication after revocation.** An operator whose license has been revoked shall not be granted a new license for five

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years following revocation and must reapply for licensure to determine current compliance with parts 9555.5105 and 9555.6105 to 9555.6265.

9555.6155 RECORD ON THE RESIDENCE.

A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:

A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1;

B. the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C. the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;

D. any written inspection reports from a health authority or building official;

E. the commissioner's initial and any renewal licensing studies and inspections;

F. any comments of the operator or provider about the licensing studies and inspections;

G. written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H. a list of residents currently in the residence;

I. a list of residents who have been in the residence in the past five years;

J. documentation of any variances to parts 9555.6105 to 9555.6265;

K. arrest, conviction, and criminal history records on the operator, caregivers, and household members, and caregivers;

L. if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125, subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M. a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N. a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O. a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

9555.6165 CAPACITY.

Subpart 1. **Licensed capacity.** A maximum of four residents may live in the adult foster home at one time.

Subp. 2. **Capacity of roomers and residents.** The total number of roomers and residents in the adult foster home at one time shall not exceed four.

9555.6167 INDIVIDUAL RESIDENT PLACEMENT AGREEMENT.

The operator shall ensure that an individual resident placement agreement as defined in part 9555.5105, subpart 19, is developed, signed, and on file for the resident who is not receiving community social services under parts 9550.0010 to 9550.0092, and who does not have an individual service plan developed under part 9525.0075 or 9550.0090.

9555.6175 COOPERATE AND REPORT TO AGENCIES.

Subpart 1. **Cooperating with service agency.** The operator shall cooperate with the service agency in carrying out the provisions of the individual service plan for each resident who has one and in developing the individual resident placement agreement.

Subp. 2. **Abuse and neglect reporting.** Caregivers shall immediately report any suspected abuse or neglect of a resident to the commissioner, local agency, local police, or county sheriff as required by the Vulnerable Adults Act.

Subp. 3. **Reporting to local agency.** The operator shall ensure that the local agency is told:

A. within five calendar days of any change in the regular membership of the household or caregiver's employment status;

B. within 24 hours after the occurrence of a fire that causes damage to the residence or requires the services of a fire department or the onset of any changes or repairs to the residence that require a building permit;

C. immediately after the occurrence of any serious injury or death of a resident. "Serious injury" means an injury that is treated by a physician;

D. within 24 hours of a change in health status of a caregiver that could affect the ability of the caregiver to care for a resident;

E. immediately upon diagnosis by a physician or health authority of a reportable communicable disease, as specified in parts 4605.7000 to 4605.7800, of any resident, caregiver, or household member;

F. at least 30 days before the involuntary discharge of a resident who does not have an individual service plan; and

G. within seven days after the transfer or voluntary discharge of a resident who does not have an individual service plan.

Subp. 4. **Reporting to service agency.** The operator shall ensure that the service agency is told:

A. within five days if a resident shows a need for additional community health or social services; and

B. at least 30 days before the involuntary discharge of a resident. When a resident wants to voluntarily leave the adult foster home, the operator must notify the service agency within three days. In this instance, the resident's legal representative, if any, shall also be notified by the service agency.

9555.6185 FOSTER CARE TRAINING.

Subpart 1. **Orientation.** Operators and caregivers must complete the orientation provided by the local agency in part 9555.5505 prior to placement of the first resident following initial licensure.

Subp. 2. **Training requirements.** In addition to the orientation training, caregivers must complete the training designed to meet the needs of the residents in care in any of the subject areas and in the amount specified in subpart 4. The operator must ensure that a record of training completed is maintained.

A. Caregivers with zero to five years of licensure or experience as an adult foster home caregiver must complete 12 hours training a year.

B. Caregivers with six or more years of licensure or experience as an adult foster home caregiver must complete six hours training a year.

C. Caregivers who provide services according to a contract between the operator and the department or service must comply with any additional training requirements stated in the terms of the contract.

Subp. 3. **Exceptions.** The following persons are exempt from the training requirements in this part:

A. caregivers providing not more than 30 cumulative days of foster care in a 12-month period; and

B. caregivers providing foster care eight hours or less a week.

Subp. 4. **Training subjects.** Training subjects shall be selected from the following areas:

A. communication skills;

B. roles and relationships in foster care;

C. community services for adults;

D. constructive problem solving;

E. cultural differences;

F. basic first aid and cardiopulmonary resuscitation (CPR);

G. home safety;

H. self-esteem;

I. medication assistance;

J. human sexuality;

K. death, dying, separation, and grieving;

L. aging process;

M. recreation and leisure time;

N. nutrition;

O. mental health;

P. mental retardation;

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Q. physical disabilities;

R. chemical dependency;

S. abuse and neglect;

T. stress management;

U. assertiveness;

V. eating disorders;

W. behavior problem solving;

X. money management;

Y. data privacy;

Z. living skills training; and

AA. other areas that the local agency documents as relevant to adult foster care.

9555.6195 PROHIBITIONS AGAINST ABUSE, NEGLECT, AND DISCRIMINATION.

Subpart 1. **Protection from neglect and abuse.** The operator shall ensure that residents are protected from abuse and neglect through compliance with the Vulnerable Adults Act and parts 9555.8000 to 9555.8500.

Subp. 2. **Nondiscrimination.** Under Minnesota Statutes, section 363.03, subdivision 3, the operator must comply with the nondiscrimination provisions applicable to public accommodations.

9555.6205 PHYSICAL ENVIRONMENT.

Subpart 1. **Residential occupancy.** The residence must meet the definition of a dwelling unit in a residential occupancy and be free of any plumbing, electrical, ventilation, mechanical or structural hazard that would threaten the health or safety of a resident.

Subp. 2. **Living room access.** Each resident must have use of and free access to the living room.

Subp. 3. **Dining area.** Each residence shall have a dining area furnished for group eating that is simultaneously accessible to residents and household members.

Subp. 4. **Resident bedrooms.** Residents must mutually consent to share a bedroom with another resident. No more than two residents may share one bedroom.

A. Resident bedrooms must meet the following criteria:

(1) A single-occupancy bedroom must have at least 80 square feet of floor space with a 7-1/2 foot ceiling. A double-occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot ceiling.

(2) Bedrooms must be separated from halls, corridors, and other habitable rooms by floor-to-ceiling walls containing no openings except doorways and must not serve as a corridor to another room used in daily living.

(3) A resident's personal possessions and items for the resident's own use are the only items permitted to be stored in a resident's bedroom.

(4) When possible, a resident shall be allowed to have items of furniture that he or she personally owns in the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or another resident's use of the bedroom.

B. Each resident shall be provided with the following furnishings:

(1) A separate, adult-size single bed or larger with a clean mattress in good repair.

(2) Clean bedding appropriate for the season for each resident.

(3) An individual dresser and closet for storage of personal possessions and clothing.

(4) A mirror for grooming.

9555.6215 WATER AND FOOD.

Subpart 1. **Water.** Water from privately-owned wells must be tested annually by a Minnesota Health Department-certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. Retesting and corrective measures may be required by the health authority if results exceed state water standards in chapter 4720.

Subp. 2. **Food.** Food served must meet any special dietary needs of a resident as prescribed by the resident's physician or dietitian. Three nutritionally balanced meals a day must be served or made available to residents, and nutritious snacks must be available between meals.

Subp. 3. **Food safety.** Food must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

9555.6225 SANITATION AND HEALTH.

Subpart 1. **Sanitation and cleanliness.** The residence must be clean, as specified in part 4625.0100, subpart 2, and free from accumulations of dirt, rubbish, peeling paint, vermin, or insects.

Subp. 2. **Toxic substances.** Chemicals, detergents, and other toxic substances must not be stored with food products.

Subp. 3. **Physical examination of resident.** Each resident must be examined by a physician no more than 30 days before or within three days after placement in the adult foster home to ensure that the resident is free of the reportable communicable diseases named in parts 4605.7000 to 4605.7800. Transfer records from a health care facility licensed by the Department of Health may be substituted for this requirement.

Subp. 4. **First-aid supplies.** The operator shall ensure that the residence is equipped with accessible first-aid supplies including bandages, sterile compresses, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, adhesive tape, and first-aid manual.

Subp. 5. **Emergencies.** The operator shall be prepared for emergencies and ensure that:

A. a noncoin-operated telephone and an operable flashlight is located within the residence;

B. the phone numbers of each resident's representative, physician, and dentist are readily available;

C. phone numbers of the local fire department, police department, and an emergency transportation service are posted by the telephone;

D. prior arrangements are made for a substitute caregiver who meets the qualifications in part 9555.6125, subpart 4, to provide care during emergencies;

E. each resident is informed of a designated area within the residence where the resident shall go for cover during severe storms or tornadoes;

F. fire drills are conducted at least once every three months;

G. a written fire escape plan and a log of quarterly fire drills is on file in the residence; and

H. the fire escape plan is approved by the fire marshal and specifies emergency phone numbers, a place to meet outdoors for roll call, smoke detector and fire extinguisher locations, plans for quarterly fire and tornado drill sessions, and escape routes to the outside from the levels used by residents. In buildings with three or more dwelling units, enclosed exit stairs must be indicated. There must be an emergency escape plan for each resident.

Subp. 6. **Individual personal articles.** Individual clean bed linens, towels, and wash cloths must be available for each resident.

Subp. 7. **Pets.** Pets housed within the residence shall be maintained in good health. The operator shall ensure that the resident and the resident's representative is notified before admission of the presence of pets in the residence.

Subp. 8. **Resident's medication.** Caregivers may administer medication to a resident who is not capable of self-administering medication only if the operator ensures that the procedures in items A to G are followed.

A. The operator shall get a written statement from the resident's physician stating the name of the medication prescribed and whether the resident is capable of taking the medication without assistance.

B. The operator shall get written permission from the resident or the resident's legal representative to administer the medication.

C. A resident who is not capable of self-administering the medication may be administered the medication by a caregiver in accordance with the written instructions from the resident's physician if the written permission has been obtained from the resident or the resident's legal representative. A prescription label is sufficient to constitute written instructions from a physician.

D. Each resident receiving medication assistance must have a medication record containing:

(1) the information on the prescription label;

(2) the consequences if the medication is not taken as directed;

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(3) the adverse reactions to the medication that must be reported to the resident's physician;

(4) instruction from the resident's physician indicating when the resident's physician must be notified if the medication is not taken as prescribed;

(5) notation of when a medication is started, changed, or discontinued; and

(6) notation of any reports made to the resident's physician whenever the resident does not take medication as prescribed or there are any adverse medication reactions.

E. A caregiver must report to the resident's physician and legal representative:

(1) any adverse medication reaction as specified in item D, subitem (3); and

(2) the resident's refusal or failure to take medication as prescribed and in accordance with the physician's instructions in item D, subitem (4).

F. A caregiver must immediately report to the local agency whenever the resident's physician is notified because medication is not taken as prescribed and the physician determines that the refusal or failure to take medication as prescribed creates an immediate threat to the resident's health or safety or the health or safety of other residents or household members.

G. A caregiver shall not give injectable medication unless:

(1) the caregiver is a registered nurse or licensed practical nurse with a current Minnesota license, is authorized to do so in writing by the resident's physician, and is covered by professional liability insurance; or

(2) there is an agreement signed by the caregiver, the resident's physician, the resident, and the resident's legal representative specifying what injections may be given, when, how, and that the physician shall retain responsibility for the caregiver's giving the injections. A copy of the agreement must be placed in the resident's personal record.

Subp. 9. **Storage of medication.** Schedule II controlled substances in the residence that are named in Minnesota Statutes, section 152.02, subdivision 3, must be stored in a locked storage area permitting access only by residents and caregivers authorized to administer the medication as named in subpart 8.

Subp. 10. **Weapons.** Weapons and ammunition must be stored separately in locked areas that are inaccessible to residents and prevent contents from being visible to residents. "Weapons" means firearms and other instruments or devices designed for and capable of producing bodily harm.

9555.6235 ADULT FOSTER HOME PROGRAM.

The operator shall develop and implement a commissioner-approved written plan that allows residents to share in the privileges and responsibilities of the adult foster home and includes the information in items A to C.

A. The type of functionally impaired adults to be served.

B. The foster care that will be available to residents within the adult foster home including the provision of:

(1) lodging;

(2) food;

(3) protection;

(4) personal care;

(5) household and living skills assistance or training;

(6) opportunities to participate in community, recreation and religious activities, and events of the resident's choosing;

(7) opportunities for the resident to have contact with family and friends;

(8) assistance safeguarding cash resources, such as banking, reporting the resident's earnings to appropriate agencies, keeping records of financial information (checks issued and received), and accounting for the resident's funds controlled by the operator;

(9) supervision;

(10) transportation;

(11) assistance with the provision of other community, social, or health services as named in the resident's individua service plan, if any; and

(12) medication assistance.

C. A program abuse prevention plan with specific measures to be taken to minimize the risk of abuse to residents under pa 9555.8200.

9555.6245 PERSONAL RECORD OF RESIDENT IN FOSTER CARE.

Subpart 1. **General provisions.** The operator shall ensure that an individual record is maintained in the adult foster home on each resident.

Subp. 2. **Demographic information.** The record must include the resident's name, birthdate, sex, race, marital status, next of kin, Social Security number, medical assistance number, name, address, and phone number of an emergency contact or the resident's legal representative, admission date, place or address from which the resident was admitted, date of leaving the residence, and place or address to which the resident has moved.

Subp. 3. **Medical information.** The record must contain the following medical information:

A. the name, address, and phone number of the resident's physician, dentist, clinic, and other sources of medical care;

B. a health history and information on any health risks, allergies, currently prescribed medication, and documentation of the physical examination or transfer record required in part 9555.6225, subpart 3;

C. any emergency treatment needed or provided while the resident resides in the adult foster home; and

D. the medication record required under part 9555.6225, subpart 8.

Subp. 4. **Cash resource information.** The record must include an accounting of any personal funds and charges against those funds if the operator or a caregiver gives cash resource assistance to a resident.

Subp. 5. **Incident reports.** The record must contain all incident reports. Incident reports must be written when a resident requires emergency care, when a police report of an incident involving a resident has been made, or when a complaint has been filed under the Vulnerable Adults Act. Incident reports must be entered into the resident's personal record by the provider within two hours after knowledge of the occurrence.

Subp. 6. **Individual abuse prevention plan.** The record must contain an individual abuse prevention plan for a resident developed in compliance with part 9555.8300.

Subp. 7. **Individual service plan.** The record must contain the service agency's initial and current individual service plan for a resident.

Subp. 8. **Individual resident placement agreement.** The record must contain the initial individual resident placement agreement for a resident and the annual update of the agreement.

Subp. 9. **Individual mobility check list.** The record must contain an individual mobility check list for a resident as specified in part 9555.5605, subpart 2.

Subp. 10. **Transfer or discharge.** When a resident is transferred or discharged for any reason a note must be made in the resident's record showing the date of discharge, forwarding address, and reason for discharge or transfer.

Subp. 11. **Record storage.** The personal record on a resident must be stored by the operator for four years after the resident has been discharged from the residence.

9555.6255 RESIDENT'S RIGHTS.

Subpart 1. **Information about rights.** The operator shall ensure that a resident and a resident's legal representative are given, at admission:

A. an explanation and copy of the resident's rights specified in subparts 2 to 7;

B. a written summary of the Vulnerable Adults Act prepared by the department; and

C. the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

Subp. 2. **Right to use telephone.** A resident has the right to daily, private access to and use of a noncoin-operated telephone for local calls and long-distance calls made collect or paid for by the resident.

Subp. 3. **Right to receive and send mail.** A resident has the right to receive and send uncensored, unopened mail.

Subp. 4. **Right to privacy.** A resident has the right to personal privacy and privacy for visits from others, and the respect of individuality and cultural identity. Privacy must be respected by operators, caregivers, household members, and volunteers by

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knocking on the door of a resident's bedroom and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance as noted in the resident's individual record.

Subp. 5. **Right to use personal property.** A resident has the right to keep and use personal clothing and possessions as space permits, unless to do so would infringe on the health, safety, or rights of other residents or household members.

Subp. 6. **Right to associate.** A resident has the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of other residents or household members.

Subp. 7. **Married residents.** Married residents have the right to privacy for visits by their spouses, and, if both spouses are residents of the adult foster home, they have the right to share a bedroom and bed.

9555.6265 SAFEGUARDS FOR CASH RESOURCES ENTRUSTED TO OPERATOR.

Subpart 1. **Determination.** If the social worker determines that a resident needs and wants assistance safeguarding cash resources, any cash resources entrusted to the operator must be handled in accordance with this part.

Subp. 2. **Procedures for handling cash resources.** If a resident entrusts cash resources to the operator, the procedures in items A to F must be used.

A. The resident and the resident's legal representative shall be given a receipt by the operator. Receipts must be signed by the resident or the resident's legal representative.

B. The operator shall not be entrusted with cash resources in excess of $300 plus resources sufficient to meet one month's cost of care.

C. The resident or resident's legal representative shall have access to the written records involving the resident's funds.

D. The operator shall provide the resident or resident's legal representative with a written quarterly accounting of financial transactions made on behalf of the resident.

E. Upon the death of a resident, any cash resources of the resident must be given to the executor or administrator of the estate or, if none has been appointed, to the resident's legal representative in exchange for an itemized receipt.

REPEALER. Minnesota Rules, parts 9555.5100, 9555.5200, 9555.5300, and 9555.5400 are repealed five days after the notice of adoption of parts 9555.5105 to 9555.5705 is published in the *State Register*. Minnesota Rules, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed five days after the notice of adoption of parts 9555.6105 to 9555.6265 is published in the *State Register*, except as parts 9555.6100 to 9555.6400 apply to operators of adult foster homes providing care and approved by the county board under part 9555.6400 on the date of adoption of parts 9555.6105 to 9555.6265. As to the operators of those adult foster homes, parts 9555.6100, 9555.6200, 9555.6300, and 9555.6400 are repealed one year after the notice of adoption of parts 9555.6105 to 9555.6265 is published in the *State Register*.

EFFECTIVE DATE. Minnesota Rules, parts 9555.5105 to 9555.6265 take effect five days after the notice of adoption is published in the *State Register*, except for the operators of those adult foster homes providing care and approved by a county welfare board under part 9555.6400 on that date. As to the operators of those adult foster homes, parts 9555.6105 to 9555.6265 take effect six months after the notice of adoption is published in the *State Register* or on the day after an operator's current period of approval under part 9555.6400 expires, whichever is later.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
CENTENNIAL OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

DATE: Feb. 19, 1987

TO: Rita Desmond
Legal Assistant
Attorney General's Office, Administrative Division

FROM: Jane Nelson
Management Analyst, rules unit
Department of Human Services JN

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Adult Foster Care Services and Licensure of Adult Foster Homes, Minnesota Rules, parts 9555.5105 to 9555.6265.

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of a rule adopted without a public hearing for the above entitled matter.

Official documents in this submitted material include:

1. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register (Exhibits A and C).

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached (Exhibit L).

3. The notice of intent to adopt a rule without a public hearing as mailed (Exhibit CC).

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700 (Exhibit N).

5. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list (Exhibit R).

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ADMINISTRATIVE AGENCIES

6. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register (Exhibit M).

7. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the revisor of statutes.

8. The findings of fact, conclusions, and order adopting the rule.

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness (Exhibit K contains comments received as a result of publication of the Notice of Solicitation and Exhibit BB contains comments received as a result of publication of the proposed rule and notice to adopt without a hearing).

10. The declaration of the attorney in the attorney general's office who represents the agency.

11. No requests were received from the public of persons to be notified of submittal of the rule to the Attorney General.

If you have any questions on this submitted material, please call me at 297-1217

Notice of Intent

Authority: 245.782 sbd 2, 6, 14 — 256.01 sd 4(3) ok
245.783 sbd 1 — 256E.03 " 2(c) + (d)
245.802 Sbd 1 ok — 256E.05 " 1 ok
Note ⇒ Does Mn Stat 245.802 subd 4 ← last paragraph apply? — 256E.08 " 1(1-4)(6)
No sm. bus. Stmt. — 393.07 subd 2

Rule

Changes from proposed to adopted

74 line IV-11 "pay means"

See pencil markup on A6 Copy

5605

Subp. 2