

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1426 | Docket No. 05.0009.0608

DATE RECEIVED 12/18/87 | ADOPTED W/O HEARING

REVIEW DATE | EMERGENCY RULE X

DUE DATE 1/4/88

APPROVED 12/4/88 | REVISOR APPROVED

DISAPPROVED | REVISOR DISAPPROVED

WITHDRAWN | FIELD W/SEC.STATE

RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion

6/22/87 Date published in State Register

Comments

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule

Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

176.135 subd 7 Statutory Authority

No Small Business Statement

No Expenditure of public money statement

Yes Signature

~~Statement of Need and Reasonableness~~

~~Small Business Statement~~

~~Fees - § 16A.128~~

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

11/13/87 Date 30/25 days before adoption

✓ Publication in State Register

11/16/87 Date 30/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting

12/18/87 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney

Gwm Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : January 4, 1988

TO : WILLIAM HOWARD
Assistant Attorney General

FROM :

JULIE A. LEPPINK
Special Assistant
Attorney General

PHONE :

SUBJECT : 7-3493

In the Matter of the Adopted Rules Relating to
Workers' Compensation Cost of Medical Record Copies

The above-referenced rule has been approved as to its legality by the Attorney General on January 4, 1988.

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.

JAL: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 Labor and Industry

Adopted Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

Rules as Adopted

5219.0010 [Emergency] PURPOSE.

This chapter is intended to provide a schedule of reasonable charges for copies of health care provider records or reports substantiating the nature of a medical bill and its relationship to the work injury. The privacy of medical reports or records under other provisions of law is not to be affected by this chapter.

5219.0020 [Emergency] SCOPE.

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Subpart 1. **Doctor's office notes submitted with bill.** ~~No~~ A charge of 50 cents is allowed for ~~a copy~~ copies of ~~a doctor's~~ doctors' office notes covering the services billed which are submitted without a request from the employer or insurer. This charge shall apply regardless of the number of pages submitted.

Subp. 2. **~~Schedule of charges~~ Requests for additional records.** Reasonable charges for ~~other~~ providing copies of existing medical records or reports ~~obtained from health care providers under Minnesota Statutes, section 176.135, subdivision 7,~~ pursuant to a request are as follows ~~for each patient~~:

A. $5 per file as a retrieval fee;

B. 75 cents a page for up to 20 pages;

C. 50 cents a page for the next 32 pages; and

D. 25 cents a page for all remaining pages.

Subp. 3. **First report form, maximum medical improvement.**

Approved by Revisor JCF

Part 5220.2590, subpart 4, governs the physician's first report form and the maximum medical improvement form. No charge is allowed as provided in that part.



Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

January 4 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Julie A Segment
SPECIAL ASSISTANT ATTORNEY GENERAL

12:50 PM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN - 4 1988
Joan Anderson Growe
Secretary of State

[redacted]

Department of Labor and Industry
Workers' Compensation Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Emergency Rules Governing Workers' Compensation, Fees for Medical Records

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing charges by health care providers for medical records and reports supplied to workers' compensation insurers. A new subd. 7, added to Minn. Stat., section 176.135 by the 1987 legislature, allows health care providers to charge a reasonable fee for copies of records and reports that are in existence and directly relate to the medical charges for which payment is sought under the workers' compensation law. The adoption of the rule is authorized by Minnesota Statutes, section 176.135, subd. 7 (1987 Minn. Laws, ch. 332, sec. 36), which requires the agency to adopt a schedule of reasonable charges by emergency rules.

The Department of Labor and Industry requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Gary Mestad
Department Counsel
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 296-6183 and in person at the above address.

All statements of information and opinions shall be accepted until July 1, 1987. Any written material received by the Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 15 June 1987

Ray Bohn, Commissioner

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies exist on certain boards and other state agencies pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-2805. Application deadline is July 14, 1987.

MINNESOTA COUNCIL FOR THE HEARING IMPAIRED has [illegible] vacancies open, as follows:

1 member from the N.E. Region (Area Code 218) Advisory Committee

1 member at-large

The Council shall advise the Commissioner regarding services, programs, services that may best serve the needs of the public, awareness of needs and potential of hearing impaired people, and the Council's relationship to various agencies. Members are appointed by the Commissioner of Human Services. Terms are staggered. Members receive $35/day for preparation and participation except for members who are full time state employees or full time employees of political subdivisions of the state. Members do not receive the $35/per diem. Quarterly meetings. For specific information contact the Minnesota Council for the Hearing Impaired, Mark Procopio, Deaf Services Division, Dept. of Human Services, 4th Floor, Centennial Bldg., 658 Cedar St., St. Paul, MN 55155, (612) 297-1872 V/TDD.

BOARD OF BARBER EXAMINERS has 1 vacancy open for a professional member who has had at least 5 years experience. The board examines, registers and licenses barbers; enforces statutes regulating barbers, barber instructors, barber schools and shops. Members are appointed by the Governor. Members must deal with the Ethical Practices Board. Meetings as necessary. For specific information contact the Board of Barber Examiners, 500 Metro Square Bldg., St. Paul, MN 55101, (612) 296-2361.

MINNESOTA COUNCIL ON PRODUCTIVITY AND QUALITY has 5 vacancies open for representatives of management, labor, small business, engineering or business-management education. The council shall help raise public awareness of quality and productivity as a means to increase the state's industrial competitiveness, shall disseminate case studies and other material describing successful efforts, shall work on better labor-management relations. Four members are appointed by the Governor; two members are appointed by the Speaker of the House and two members are appointed by the Senate majority leader. Compensation of public

Department of Labor and Industry

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

Rules as Proposed (all new material)

5219.0010 [Emergency] PURPOSE.

This chapter is intended to provide a schedule of reasonable charges for copies of health care provider records or reports substantiating the nature of a medical bill and its relationship to the work injury. The privacy of medical reports or records under other provisions of law is not to be affected by this chapter.

5219.0020 [Emergency] SCOPE.

This chapter is applicable to charges for copies from health care providers as defined in Minnesota Statutes, section 176.011, subdivision 24.

5219.0030 [Emergency] COST OF MEDICAL RECORDS.

Subpart 1. **Doctor's office notes.** No charge is allowed for a copy of a doctor's office notes covering the services billed.

Subp. 2. **Schedule of charges.** Reasonable charges for other copies of existing medical records or reports obtained from health care providers under Minnesota Statutes, section 176.135, subdivision 7, are as follows for each patient:

A. $5 per file as a retrieval fee;

B. 75 cents a page for up to 20 pages;

C. 50 cents a page for the next 32 pages; and

D. 25 cents a page for all remaining pages.

Subp. 3. **First report form, maximum medical improvement.** Part 5220.2590, subpart 4, governs the physician's first report form and the maximum medical improvement form. No charge is allowed as provided in that part.

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5219

The attached rules are approved for publication in the State Register

John C. Fuller
Assistant Deputy Revisor

Department of Labor and Industry

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Workers' Compensation Cost of Medical Record Copies

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5219

The attached rules are approved for publication in the State Register

John C. Fuller
Assistant Deputy Revisor

Department of Labor and Industry

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

Rules as Proposed (all new material)

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Approved by Revisor

E

DEPARTMENT OF LABOR AND INDUSTRY

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Records Copies

Notice of Intent to Adopt an Emergency Rule

Notice is hereby given that the State Department of Labor and Industry intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 176.135, subdivision 7. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, Section 14.29 to 14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Ray Bohn, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

A copy of the proposed emergency rule is attached to this notice.

A free copy of the proposed emergency rule is available by contacting Julie Kress at 296-2342.

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

Upon the adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to 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 the written request to Julie Kress at the above address.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, Section 14.35.

Dated This 10th Day of November, 1987.

Ray Bohn
Commissioner

Department of Labor and Industry

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

Rules as Proposed (all new material)

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Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Workers' Compensation Cost of Medical Record Copies

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5219

The attached rules are approved for publication in the State Register

John C. Fuller
Assistant Deputy Revisor

STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Workers' Compensation Cost of Medical Record Copies

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

Cheryl Bauer being sworn says:

That on the 18 day of December, 1987, in the City of St. Paul, County of Ramsey, State of Minnesota I mailed the attached Notice of Submission to the Attorney General by depositing in the United States mail at said City of St. Paul, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Cheryl A Bauer
Secretary
(Title)

Subscribed and sworn to before me
this 18th day of December 1987.

SHAWN R. KERNS
NOTARY PUBLIC-MINNESOTA
ST. LOUIS COUNTY
MY COMMISSION EXPIRES JANUARY 28, 1989

MMA
MINNESOTA MEDICAL ASSOCIATION
612/378-1875

L. Ashley Whitesell, M.D.
PRESIDENT
Lawrence M. Poston, M.D.
PRESIDENT-ELECT
Robert D. Christensen, M.D.
CHAIRMAN OF THE BOARD
Steven D. Carter
CHIEF EXECUTIVE OFFICER

RECEIVED
DEC 11 1987
Commissioner's Office
Dept. Of Labor & Industry

December 10, 1987

Ray Bohn, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

DELIVERED BY MESSENGER

RE: **Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies**

Dear Commissioner Bohn:

This letter constitutes the Minnesota Medical Association's official comments in response to the proposed rule Parts 5219.0010 to 5219.0030 [Emergency], relating to cost of medical records, published by the Department of Labor and Industry in the State Register November 16, 1987, 12 S.R. 1067.

The Medical Association takes strenuous exception to these proposed emergency rules on three grounds. First, the rules as proposed conflict with the applicable state law, Minnesota Statutes, § 176.135, subd. 7, (1987). Second, the schedule of charges allowed for existing records and existing reports is not reasonable. Finally, the rule goes beyond the scope of the Department's statutory authority to promulgate rules. The following comments will substantiate the grounds upon which the Medical Association makes its objections.

1. THE PROPOSED EMERGENCY RULE CONFLICTS WITH THE STATUTE

The provision of state statutes upon which the Department bases its authority to promulgate these rules specifically provides that "[h]ealth care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter." See, Minn. Stat., § 176.135, Subd. 7.

This proposed rule, however, at subpart 1, provides that "[n]o charge is allowed for a copy of a doctor's office notes covering the services billed." This subpart is in direct contradiction to the above-stated statutory provision.

Although the rule does not make it clear that the doctor's office notes are a part of the medical record, in the context of the worker's compensation medical examination, the doctor's office notes are the report of the examination. The information contained in these notes is gathered for the diagnosis, care, evaluation, and treatment of the injured worker. The type of information gathered and recorded is, although significantly more detailed and extensive, similar to that gathered and recorded for any medical examination of a patient. It is commonly understood in the health care community that doctor's office notes of an examination are a part of the medical record. Moreover, physicians have a legal obligation to properly record the medical examination findings . Failure to do so may be grounds for discipline under the Medical Practice Act, Minnesota Statutes § 147.091, Subd. 1 (o)

(1986). Additionally, you may recall that your Executive Office has openly acknowledged that doctor's office notes are considered a part of the medical record.

Also, since subpart 1 addresses those doctor's office notes which relate to the services billed, this rule could be interpreted as not allowing physicians to charge for copies of records which directly relate to the items for which payment is sought. This is clearly in contradiction to the statute. If it is the case that the Department intended to require submission upon request of an itemized statement of charges and disallow a separate fee for this, such a requirement should have been clearly enunciated.

The language of subpart 1 is sure to cause confusion and conflict not only among the various parties directly involved in the evaluation and settlement of workers compensation claims, but in the general health care community as well. Although the rulemaking authority is, by its terms, limited to the workers compensation system, the levels of reasonable charges will, by virtue of their status as administrative rules, become a standard of reasonable charges for copies of medical records in other contexts such as requests for records under the Access to Health Records Law (Minnesota Statutes § 144.335).

The Department's responsibility under the statutory grant of emergency rulemaking authority was not to determine whether physicians and hospitals can charge for medical records, but rather to determine how much they can charge for these records.

2. THE PROPOSED EMERGENCY RULE IS UNREASONABLE

There is ample evidence to support the proposition that the proposed rule is not reasonable. These comments will briefly note three important factors which highlight the unreasonable nature of this rule.

A. A Standard Of Reasonable Charges Currently Exists

There currently exists a standard which all participants in the Minnesota Worker's Compensation system consider reasonable and have been using since August, 1985. This standard was enunciated in the Department of Labor and Industry publication entitled COMPACT. In the August 1985 issue of this publication, the Department of Labor and Industry stated that it is reasonable to charge $10 for up to 15 pages for copies of office notes or portions of charts from clinics or doctors, plus 50 cents for each additional page of records.

This same issue of COMPACT provides that the above-stated charges were developed, based upon the Department's experience and the recommendations of the Department's advisory boards.

Since the actual costs to physicians and hospitals for retrieval and copying of records can be assumed to be higher today than it was in 1985, it is not understood how this drastic reduction represented in the proposed emergency rules, from the levels deemed reasonable in 1985, can seriously be argued to meet the statutory requirement of reasonableness.

B. The Proposed Emergency Rule Bears No Relationship To Actual Costs.

It is apparent that this proposed rule was not based upon a time study or any other type of study designed to determine the actual costs of retrieving and copying records. This proposed rule has no basis in fact and is not substantiated by any existing data. The Medical Association fails to understand how a current standard of reasonable charges (the August 1985 COMPACT) can be completely ignored by the very state agency which initially endorsed it.

The Minnesota Medical Association believes that current conditions would indicate that the 1985 COMPACT reasonable charge schedule should be increased to reflect the actual rise in wages for office workers, as well as the actual costs for copying records. The Medical Association would be more than willing to undertake a formal study of the time and costs involved in responding to requests for records and reports within the workers compensation system if the results of such a study would be of assistance in setting reasonable charges in an administrative rule.

c. The Department Ignored The New Standard Developed by the Industry

The Department should not so cavalierly ignore the new standard of reasonableness contained in the proposed rule which the Department published September 28, 1987 (12 S.R. 576) but subsequently, and without explanation, withdrew. This rule was the product of an agreement between Minnesota physicians, Minnesota hospitals, and Minnesota Worker's Compensation insurance companies. It embodies what these parties believe to be a reasonable payment schedule for medical records and reports. By ignoring this standard the Department is sending a message to the Workers' Compensation Industry that it is not truly seeking the input of interested and directly affected parties, but that it intends to unilaterally develop standards which will be imposed upon the industry. What is even more frightening than this message, is the fact that the standards proposed bear no rational relationship to existing conditions.

3. THE PROPOSED EMERGENCY RULE IS BEYOND THE SCOPE OF THE DEPARTMENT'S AUTHORITY

The Department's statutory authority to promulgate rules in this area is short and quite clear. The Department's sole responsibility was to develop a schedule of reasonable charges for medical records. Nowhere does the statute allow the Department to determine that certain medical records are to be provided free of charge. For this reason, the Department completely lacks any authority to establish by rule that doctor's office notes covering the services billed be provided free of charge.

MINNESOTA MEDICAL ASSOCIATION PROPOSAL

The Medical Association supports the payment levels and concepts contained in the proposed rule published September 28, 1987.

Additionally, we believe that it is appropriate to clarify that the First Report of Injury and the report relating to Maximum Medical Improvement be provided without additional

charge as required in other Workers' Compensation rules (Minnesota Rules Part 5220.2590, Subp. 4). We suggest then that Subpart 1 of this proposed emergency rule be deleted, and subpart 3 be inserted in its place.

Finally, we suggest that the proposed subpart 2 be replaced with the schedule of reasonable charges published in the September 28, 1987 proposed emergency rule. We believe that the charge amounts detailed in the September 28, 1987 proposed emergency rule would be deemed by the Legislature to be reasonable. Because all interested or affected parties have been on notice, since at least September of this year, that the Department of Labor and Industry would be promulgating rules relating to charges for medical record copies, and the fact that the level of charges suggested by the Medical Association had been properly published for public comment, this substitution should not be viewed as a substantial change.

The Medical Association requests to be informed of submission of this rule to the Attorney General.

Respectfully submitted,

Gary Goetzke, J.D., Director
Medical Staff Services

Robert Eelkema, J.D.
Legal Counsel

Enclosures

August 1985 COMPACT, pp 1, 2
12 S.R. 576, 577
12 S.R. 1066, 1067
Minnesota Statute § 176.135, Subd. 7, (1987)

STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Workers' Compensation Cost of Medical Record Copies

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

Cheryl Bauer being sworn says:

That on the 18 day of December, 1987, in the City of St. Paul, County of Ramsey, State of Minnesota I mailed the attached Notice of Submission to the Attorney General by depositing in the United States mail at said City of St. Paul, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Cheryl A Bauer
Secretary
(Title)

Subscribed and sworn to before me
this 18th day of December, 1987.

SHAWN R. KERNS
NOTARY PUBLIC-MINNESOTA
ST. LOUIS COUNTY
MY COMMISSION EXPIRES JANUARY 28, 1989

Emergency Rules

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules
Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Labor and Industry

Workers' Compensation Division

Withdrawal of Proposed Emergency Rules Relating to Cost of Medical Records Copies

Notice is hereby given that the above-captioned rule as proposed and published in the *State Register* on September 28, 1987, (12 S.R. 576-577) is hereby withdrawn pursuant to Minn. Stat. § 14.05, subd. 3 (1986).

Amended emergency rules on the above captioned matter are published below.

Dated: 6 November 1987

Ray Bohn, Commissioner
Department of Labor and Industry

Department of Labor and Industry

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

Notice of Intent to Adopt an Emergency Rule

Notice is hereby given that the State Department of Labor and Industry intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 176.135, subdivision 7. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules on Minnesota Statutes, Section 14.29 to 14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Ray Bohn, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

A copy of the proposed emergency rule is attached to this notice.

A free copy of the proposed emergency rule is available by contacting Julie Kress at 296-2342.

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

Upon the adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request

notification of the date of submission to 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 the written request to Julie Kress at the above address.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, Section 14.35.

Dated: 10 November 1987

Ray Bohn, Commissioner
Department of Labor and Industry

Rules as Proposed (all new material)

5219.0010 [Emergency] PURPOSE.

This chapter is intended to provide a schedule of reasonable charges for copies of health care provider records or reports substantiating the nature of a medical bill and its relationship to the work injury. The privacy of medical reports or records under other provisions of law is not to be affected by this chapter.

5219.0020 [Emergency] SCOPE.

This chapter is applicable to charges for copies from health care providers as defined in Minnesota Statutes, section 176.011, subdivision 24.

5219.0030 [Emergency] COST OF MEDICAL RECORDS.

Subpart 1. **Doctor's office notes.** No charge is allowed for a copy of a doctor's office notes covering the services billed.

Subp. 2. **Schedule of charges.** Reasonable charges for other copies of existing medical records or reports obtained from health care providers under Minnesota Statutes, section 176.135, subdivision 7, are as follows for each patient:

A. $5 per file as a retrieval fee;

B. 75 cents a page for up to 20 pages;

C. 50 cents a page for the next 32 pages; and

D. 25 cents a page for all remaining pages.

Subp. 3. **First report form, maximum medical improvement.** Part 5220.2590, subpart 4, governs the physician's first report form and the maximum medical improvement form. No charge is allowed as provided in that part.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, 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.

Board of Animal Health

Notice of Quarterly Board Meeting

A quarterly meeting of the Board of Animal Health has been scheduled for Friday, December 11, 1987 at the Board of Animal Health offices, 90 W. Plato Boulevard, St. Paul, Minnesota at 9:30 a.m.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

Thomas J. Hagerty, DVM
Executive Secretary

Board of Barber Examiners

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Barbers' Licensing and Operation

Notice is hereby given that the State Board of Barber Examiners is seeking information or opinions from sources outside the

Emergency Rules

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

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2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing, and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. § 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

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Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Labor and Industry

Workers' Compensation Division

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Amended emergency rules on the above captioned matter are published below.

Dated: 6 November 1987

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Department of Labor and Industry

Department of Labor and Industry

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Record Copies

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Notice is hereby given that the State Department of Labor and Industry intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 176.135, subdivision 7. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules on Minnesota Statutes, Section 14.29 to 14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Ray Bohn, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

A copy of the proposed emergency rule is attached to this notice.

A free copy of the proposed emergency rule is available by contacting Julie Kress at 296-2342.

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

Upon the adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request

notification of the date of submission to 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 the written request to Julie Kress at the above address.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, Section 14.35.

Dated: 10 November 1987

Ray Bohn, Commissioner
Department of Labor and Industry

Rules as Proposed (all new material)

5219.0010 [Emergency] PURPOSE.

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Thomas J. Hagerty, DVM
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Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Barbers' Licensing and Operation

Notice is hereby given that the State Board of Barber Examiners is seeking information or opinions from sources outside the

STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Workers' Compensation Cost of Medical Record Copies

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE

Notice of the Commissioner's intent to adopt the above-entitled emergency rule was published in the State Register on November 16, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on November 13, 1987.

All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of intent to adopt the emergency rule.

Based on comments received on the rule as published the following findings are made:

Minnesota Rule Part 5219.0030, subpart 1.

1. Additional language would clarify the intent to make this subpart applicable to records submitted at the time of billing without request.

2. A minimal charge of 50 cents is more in line with the intent of Minn. Stat. § 176.135, subd. 7 and a more reasonable charge for these records than the original proposal.

Minnesota Rule Part 5219.0030, subpart 2.

3. Modifications to the language of this subpart to distinguish it from subpart 1 will be helpful.

Conclusion

Therefore the modifications reflected on the attached rule as published are made.

The modifications made do not constitute substantial change because:

1. The classes of persons affected by the rule as originally published and as modified remain the same.

2. The modifications do not introduce any new subject matter that could not have been anticipated, and

3. The modifications are not major substantive changes.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Emergency Rules Relating to Workers' Compensation Cost of Medical Records Copies as modified is adopted this December 18, 1987, pursuant to authority vested in me by the Minnesota Statutes, section 176.135, subd. 7.

Ray Bohn
Commissioner of the Department of Labor and Industry

In the Matter of the Adoption of the Rule of the State of Minnesota Governing the Workers' Compensation Cost of Medical Record Copies.

DECLARATION OF COUNSEL

I, STEVEN M. GARON, ~~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 client code is 0606.

Steven M. Garon
~~Special~~ Assistant Attorney General

Date this 24th Day of December, 1987.

STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Workers' Compensation Cost of Medical Record Copies

NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.32:

PLEASE TAKE NOTICE that the above-captioned emergency rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, December 18, 1987 for review as to legality and form to the extent form relates to legality. The proposed emergency rule, the rule as adopted, all the notices, all written comments received and other required documents also have been submitted to the attorney general.

The proposed emergency rule which was published in the State Register and made available to the public on November 16, 1987, has been modified. A copy of the rule as modified is enclosed with this notice.

The rule must be approved or disapproved by the Attorney General on the tenth working day following date of receipt of the rule. You may submit written comments to the Attorney General. Any written comments must be submitted within seven working days of the date of this notice. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

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

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Gary Mesna
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

Ray Bohn
Commissioner of the Department of Labor and Industry

Dated 12/17/87

STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Workers' Compensation Cost of Medical Record Copies

NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.32:

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St. Paul, Minnesota 55155
Telephone: (612) 296-1288

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Gary Mesna
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

Ray Bohn
Commissioner of the Department of Labor and Industry

Dated 12/17/87

DEPARTMENT OF LABOR AND INDUSTRY
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55105

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Cost of Medical Record Copies

Affidavit of Mailing the Notice of Intent to Adopt an Emergency Rule and Certificate of Mailing List

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Debra Caswell, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30 that their names be placed on the State Workers' Compensation and Rehabilitation rulemaking mailing list is accurate, complete, and current as of this 13th Day of November, 1987.

That on the 13th Day of November, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intention to Adopt an Emergency Rule by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Debra Caswell

Debra Caswell
Secretary

Subscribed and sworn to before me
this 13th Day of November, 1987.

Shawn R. Kerns

SHAWN R. KERNS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 28, 1989

DEPARTMENT OF LABOR AND INDUSTRY
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55105

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Cost of Medical Record Copies

Affidavit of Mailing the Notice of Intent to Adopt an Emergency Rule and Certificate of Mailing List

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Debra Caswell, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30 that their names be placed on the State Workers' Compensation and Rehabilitation rulemaking mailing list is accurate, complete, and current as of this 13th Day of November, 1987.

That on the 13th Day of November, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intention to Adopt an Emergency Rule by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Debra Caswell

Debra Caswell
Secretary

Subscribed and sworn to before me
this 13th Day of November, 1987.

Shawn R. Kerns

SHAWN R. KERNS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 28, 1989

DEPARTMENT OF LABOR AND INDUSTRY

Proposed Emergency Rules Relating to Workers' Compensation Cost of Medical Records Copies

Notice of Intent to Adopt an Emergency Rule

Notice is hereby given that the State Department of Labor and Industry intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 176.135, subdivision 7. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, Section 14.29 to 14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Ray Bohn, Commissioner
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

A copy of the proposed emergency rule is attached to this notice.

A free copy of the proposed emergency rule is available by contacting Julie Kress at 296-2342.

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

Upon the adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to 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 the written request to Julie Kress at the above address.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with Minnesota Statutes, Section 14.35.

Dated This 10th Day of November, 1987.

Ray Bohn
Commissioner

SF-00006-03

STATE OF ...NESOTA

DEPARTMENT **Department of Labor and Industry**

Office Memorandum

TO: Bill Howard
Attorney General's Office

RECEIVED
DEC 2 7 ...
ATTORNEY GENERAL'S OFFICE
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN ...

DATE: 12/23/87

FROM: Mary Miller
Compensation Attorney

PHONE: 6-8726

SUBJECT: **Workers' Compensation Cost of Medical Record Copies Rules**

Rita Desmond needs your review and Declaration of Counsel on these as soon as possible, as the time period is running.

Thank you.

MEM;dc
#6-30

Attachments

RECEIVED
ATTORNEY GENERAL'S OFFICE
DEC 28 1987
204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

STATE OF MINNESOTA
Department of Labor and Industry
Workers' Compensation Division
444 Lafayette Road
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Department of Labor and Industry Governing Workers' Compensation Cost of Medical Record Copies

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE

Notice of the Commissioner's intent to adopt the above-entitled emergency rule was published in the State Register on November 16, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on November 13, 1987.

All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of intent to adopt the emergency rule.

Based on comments received on the rule as published the following findings are made:

Minnesota Rule Part 5219.0030, subpart 1.

1. Additional language would clarify the intent to make this subpart applicable to records submitted at the time of billing without request.

2. A minimal charge of 50 cents is more in line with the intent of Minn. Stat. § 176.135, subd. 7 and a more reasonable charge for these records than the original proposal.

Minnesota Rule Part 5219.0030, subpart 2.

3. Modifications to the language of this subpart to distinguish it from subpart 1 will be helpful.

Conclusion

Therefore the modifications reflected on the attached rule as published are made.

The modifications made do not constitute substantial change because:

1. The classes of persons affected by the rule as originally published and as modified remain the same.

2. The modifications do not introduce any new subject matter that could not have been anticipated, and

3. The modifications are not major substantive changes.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Emergency Rules Relating to Workers' Compensation Cost of Medical Records Copies as modified is adopted this December 18, 1987, pursuant to authority vested in me by the Minnesota Statutes, section 176.135, subd. 7.

Ray Bohn
Commissioner of the Department
of Labor and Industry

Department of Labor and Industry
Workers' Compensation Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Emergency Rules Governing Workers' Compensation, Fees for Medical Records

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing charges by health care providers for medical records and reports supplied to workers' compensation insurers. A new subd. 7, added to Minn. Stat., section 176.135 by the 1987 legislature, allows health care providers to charge a reasonable fee for copies of records and reports that are in existence and directly relate to the medical charges for which payment is sought under the workers' compensation law. The adoption of the rule is authorized by Minnesota Statutes, section 176.135, subd. 7 (1987 Minn. Laws, ch. 332, sec. 38), which requires the agency to adopt a schedule of reasonable charges by emergency rules.

The Department of Labor and Industry requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Gary Mesna
Department Counsel
Department of Labor and Industry
444 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 296-8184 and in person at the above address.

All statements of information and opinions shall be accepted until July 17, 1987. Any written material received by the Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 15 June 1987

Ray Bohn, Commissioner

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is July 14, 1987.

MINNESOTA COUNCIL FOR THE HEARING IMPAIRED has 2 vacancies open for the following:

a) 1 member from the N.E. Regional Service Center Advisory Committee;

b) 1 member at-large.

The council shall advise the Commissioner regarding policies, programs, services affecting hearing impaired citizens; create public awareness of needs and potential of hearing impaired people and to provide the Commissioner with a review of programs. Members are appointed by the Commissioner of Human Services. Terms are staggered. Members receive $35 per diem except for members who are full time state employees or full time employees of political subdivisions of the state shall not receive the $35 per diem. Quarterly meetings. For specific information contact the Minnesota Council for the Hearing Impaired, Mark Prowatzke, Deaf Services Division, Dept. of Human Services, 4th Floor, Centennial Bldg., 658 Cedar St., St. Paul 55155; (612) 297-1872 V/TDD.

BOARD OF BARBER EXAMINERS has 1 vacancy open for a professional member who has had at least 5 years experience. The board examines, registers and licenses barbers; enforces statutes regulating barbers, barber instructors, barber schools and shops. Members are appointed by the Governor. Members must file with the Ethical Practices Board. Meetings as necessary. For specific information contact the Board of Barber Examiners, 500 Metro Square Bldg., St. Paul 55101; (612) 296-2364.

MINNESOTA COUNCIL ON PRODUCTIVITY AND QUALITY has 8 vacancies open for representatives of management, labor, small business, engineering or business-management education. The council shall help raise public awareness of quality and productivity as a means to increase the state's industrial competitiveness; shall disseminate case studies and other material describing successful efforts; shall work on better labor-management relations. Four members are appointed by the Governor; two members are appointed by the Speaker of the House and two members are appointed by the Senate majority leader. Compensation of public

6-8726 Mary Miller - Agency

Comments

See comment from Mn Medical Assoc. ☆

Decl. of Counsel

Will be coming from Bill Howard. ✓

Affidavit of Mailing Notice of Submission ✓

Will be coming

Rule

Changes as Adopted

I did not read this rule)

Authority

176.135 subd 7 OK)