

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1460

DATE RECEIVED 3/14/88

REVIEW DATE 3/23/88

DUE DATE 3/28/88

APPROVED 3/24/88

DISAPPROVED

WITHDRAWN

Docket No. 05.0009.0884

ADOPTED W/O HEARING X

EMERGENCY RULE

REVISOR APPROVED ✓

REVISOR DISAPPROVED

FIELD W/SEC.STATE

RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

~~Yes~~ Notice to Solicit Outside Information/Opinion

X 9/21/87 Date published in State Register

X Comments NO

— Petition for Adoption of a Rule

— Board's Authorizing Resolution

✓ Proposed rule

✓ Revisor's Certificate

— Notice of Intent to Adopt Rule

245A.02(10),(11)(3) 254A.03(1) 254A.04(1); 252.28(2) Statutory Authority

— Small Business Statement

— Expenditure of public money statement

✓ Signature

✓ Statement of Need and Reasonableness

— Small Business Statement

— Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

1/27/88 Date 30/25 days before adoption

✓ Publication in State Register

2/1/88 Date 30/25 days before adoption

— Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting

3/9/88 Date

— Written requests, submissions or comments

✓ Declaration of attorney

Mary Stanislav Name of SAAG representing agency

— Notice of Submission to Attorney General

— Affidavit of Mailing Notice to Attorney General

JAL

ATTORNEY GENERAL

March 28, 1988

JANE NELSON
Rules and Bulletins Division
Human Services

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Licensing of Day Care Facilities

The above-referenced rule has been approved as to its legality by the Attorney General on March 24, 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, submissions 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
Duane Harves

Department of Human Services

Adopted Permanent Rules Relating to Licensing of Day Care Facilities

Rules as Adopted

9502.0335 LICENSING PROCESS.

Subpart 1. to 8a. [Unchanged.]

Subp. 8b. **Agency variance role.** The agency may request that the commissioner delegate to the agency the authority to grant variances to the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9502.0365 and 9502.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance for any part of the day shall constitute a variance for the entire day.

A. and B. [Unchanged.]

C. If the agency has not been delegated the authority to rule on requests for variances, or if the request seeks variance of a rule part provision the agency does not have the authority to vary, the agency shall, within 15 days after the request is received, mail to the department a copy of the request and the agency's recommendation to approve, further investigate, or deny the request. The agency shall also mail a copy of its recommendation to the applicant or provider. The commissioner shall grant or deny a request for a variance within 30 days after the department receives the request from the agency.

Subp. 9. to 16. [Unchanged.]

APPROVED AS TO FORM AND LEGALITY

March 24 19 80

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 28 1980

Joan Anderson Growe
Secretary of State

10:10 A.M.

Department of Human Services

Proposed Permanent Rules Relating to Licensing of Day Care Facilities

Rules as Proposed

9502.0335 LICENSING PROCESS.

Subpart 1. to 8a. [Unchanged.]

Subp. 8b. **Agency variance role.** The agency may request that the commissioner delegate to the agency the authority to grant variances to the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9502.0365 and 9502.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance for any part of the day shall constitute a variance for the entire day.

A. and B. [Unchanged.]

C. If the agency has not been delegated the authority to rule on requests for variances, or if the request seeks variance of a rule part provision the agency does not have the authority to vary, the agency shall, within 15 days after the request is received, mail to the department a copy of the request and the agency's recommendation to approve, further investigate, or deny the request. The agency shall also mail a copy of its recommendation to the applicant or provider. The commissioner shall grant or deny a request for a variance within 30 days after the department receives the request from the agency. ~~If the commissioner denies the applicant's or provider's request for a variance, the applicant or provider may appeal the decision according to Minnesota Statutes, sections 14.57 to 14.70. The applicant or provider shall be informed of~~

Approved by Revisor Paul Marnac

~~the right to appeal at the time of denial.~~

Subp. 9. to 16. [Unchanged.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Licensing of Day Care Facilities

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9502

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

Department of Human Services

In the Matter of the Proposed
Adoption of the Rule of
the State Department of
Human Services Governing
the Licensure of Family and
Group Family Day Care Homes,
part 9502.0335, subpart 8b, item C

NOTICE OF INTENT
TO ADOPT A RULE WITHOUT
A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1, and section 252.28, subdivision 2.

All persons have 30 days or until 4:30 p.m. on March 2, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule 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.

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

Jane Nelson, Rules and Bulletins Division
Department of Human Services
Second floor, 444 Lafayette
St. Paul, MN 55155-3816

The proposed 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 rule as noticed.

A copy of the propos rule amendment is attached. Additional copies are available at no cost upon request from Jane Nelson. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

The purpose of the proposed amendment is to correct a procedural error that is inconsistent with statute. As adopted, the variance provision allows for contested case proceedings when the commissioner denies a variance request. However, Minnesota Statutes, section 245A.08, subdivision 1, provides for an appeal and hearing under Minnesota Statutes, Chapter 14, only in the case of denial of application (245A.05), correction order and fines (245A.06), and immediate suspension, suspension, revocation, and probation (245A.07).

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jane Nelson upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General 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 the written request to Jane Nelson.

Date: 12/30/87

SANDRA S. GARDEBRING
Commissioner

Department of Human Services

Proposed Permanent Rules Relating to Licensing of Day Care Facilities

Rules as Proposed

9502.0335 LICENSING PROCESS.

Subpart 1. to 8a. [Unchanged.]

Subp. 8b. **Agency variance role.** The agency may request that the commissioner delegate to the agency the authority to grant variances to the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9502.0365 and 9502.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance for any part of the day shall constitute a variance for the entire day.

A. and B. [Unchanged.]

C. If the agency has not been delegated the authority to rule on requests for variances, or if the request seeks variance of a rule part provision the agency does not have the authority to vary, the agency shall, within 15 days after the request is received, mail to the department a copy of the request and the agency's recommendation to approve, further investigate, or deny the request. The agency shall also mail a copy of its recommendation to the applicant or provider. The commissioner shall grant or deny a request for a variance within 30 days after the department receives the request from the agency. ~~If the commissioner denies the applicant's or provider's request for a variance, the applicant or provider may appeal the decision according to Minnesota Statutes, sections 14.57 to 14.70. The applicant or provider shall be informed of~~

Approved by Revisor

~~the right to appeal at the time of denial.~~

Subp. 9. to 16. [Unchanged.]

Approved
by Revisor _____

Statement of Need and Reasonableness
Licensure of Child Care Centers

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Rules
of the Department of Human Services
Governing the Licensure of Family
and Group Family Day Care Homes,
part 9502.0335, subpart 8b, item C

STATEMENT OF NEED
AND REASONABLENESS

Adopted part 9503.0035, subpart 8b, item C, establishes variance procedures for applicants and providers of family and group family day care homes. Authority for the proposed standard is contained in Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1 and section 252.28, subdivision 2.

The purpose of the amendment is to correct a procedural error that is inconsistent with statute. As adopted, the variance provision allows for contested case procedings when the commissioner denies a variance request. However, Minnesota Statutes, section 245A.08, subdivision 1, provides for an appeal and hearing under Minnesota Statutes, Chapter 14, only in the case of denial of application (245A.05), correction orders and fines (245A.06), and immediate suspension, suspension, revocation, and probation (245A.07).

The Notice of Solicitation on this matter was published in the State Register at 12 S.R. 513 on September 21, 1987. As of Dec. 21, 1987 no comments were received by the department on this matter as a result of the publication of the Notice of Solicitation. The department does not intend to call any outside expert witnesses to testify on this matter.

12/30/87
DATED

Sandra S. Gardebring
COMMISSIONER

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE LICENSURE OF FAMILY AND GROUP FAMILY DAY CARE HOMES

AFFIDAVIT OF MAILING

Nancy Bishop, being first duly sworn, deposes and says:

That on the 27th day of January, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to 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 Bishop

Subscribed and sworn to before me

this 27 day of January, 1988

Louise J. Breidel

LOUISE J. BREIDEL
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
MY COMM. EXP. SEPT. 22, 1990

Department of Human Services

In the Matter of the Proposed
Adoption of the Rule of
the State Department of
Human Services Governing
the Licensure of Family and
Group Family Day Care Homes,
part 9502.0335, subpart 8b, item C

NOTICE OF INTENT
TO ADOPT A RULE WITHOUT
A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1, and section 252.28, subdivision 2.

All persons have 30 days or until 4:30 p.m. on March 2, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule 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.

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

Jane Nelson, Rules and Bulletins Division
Department of Human Services
Second floor, 444 Lafayette
St. Paul, MN 55155-3816

The proposed 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 rule as noticed.

A copy of the proposed rule amendment is attached. Additional copies are available at no cost upon request from Jane Nelson. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

The purpose of the proposed amendment is to correct a procedural error that is inconsistent with statute. As adopted, the variance provision allows for contested case proceedings when the commissioner denies a variance request. However, Minnesota Statutes, section 245A.08, subdivision 1, provides for an appeal and hearing under Minnesota Statutes, Chapter 14, only in the case of denial of application (245A.05), correction order and fines (245A.06), and immediate suspension, suspension, revocation, and probation (245A.07).

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jane Nelson upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General 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 the written request to Jane Nelson.

Date: 12/30/87

SANDRA S. GARDEBRING
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE LICENSURE OF FAMILY AND GROUP FAMILY DAY CARE HOMES

AFFIDAVIT OF ADDITIONAL MAILING

Nancy Bishop, being first duly sworn, deposes and says:

That on the 27th day of January, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following parties:

.The 87 Minnesota County Human Services Agencies

Nancy Bishop

Subscribed and sworn to before me

this 27 day of January, 1988

Louise J. Brendel

LOUISE J. BRENDEL
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES SEPT. 22, 1990

Department of Human Services

In the Matter of the Proposed
Adoption of the Rule of
the State Department of
Human Services Governing
the Licensure of Family and
Group Family Day Care Homes,
part 9502.0335, subpart 8b, item C

NOTICE OF INTENT
TO ADOPT A RULE WITHOUT
A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1, and section 252.28, subdivision 2.

All persons have 30 days or until 4:30 p.m. on March 2, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule 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.

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

Jane Nelson, Rules and Bulletins Division
Department of Human Services
Second floor, 444 Lafayette
St. Paul, MN 55155-3816

The proposed 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 rule as noticed.

A copy of the proposed rule amendment is attached. Additional copies are available at no cost upon request from Jane Nelson. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

The purpose of the proposed amendment is to correct a procedural error that is inconsistent with statute. As adopted, the variance provision allows for contested case proceedings when the commissioner denies a variance request. However, Minnesota Statutes, section 245A.08, subdivision 1, provides for an appeal and hearing under Minnesota Statutes, Chapter 14, only in the case of denial of application (245A.05), correction order and fines (245A.06), and immediate suspension, suspension, revocation, and probation (245A.07).

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jane Nelson upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General 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 the written request to Jane Nelson.

Date: 12/30/87

Sandra Gardebring

SANDRA S. GARDEBRING
Commissioner

the value at the time the bond is given of the grain represented by the missing or destroyed warehouse receipt. The bond must be conditioned to indemnify the warehouse operator against any loss which might be sustained because of the issuance of a duplicate receipt, must be in a form approved by the commissioner, and must be executed by a corporate surety licensed to operate in Minnesota. A valid duplicate or substitute warehouse receipt has all the rights of the document in lieu of which it was issued.

1562.2000 SHORTAGES OF GRAIN.

Whenever it appears that a warehouse operator does not have on hand grain of sufficient quality and quantity to cover the outstanding warehouse receipt obligations, notice must be given by the commissioner to the warehouse operator requiring that the shortage be corrected immediately. If the warehouse operator fails to comply with that order and the commissioner determines that the interests of depositors may be threatened, then the commissioner shall seal the warehouse to prevent any further removal of grain until the shortage is corrected.

If it appears that the warehouse operator is in default to warehouse receipt holders and unable to correct the default within a reasonable time the commissioner shall make arrangements to protect the warehouse receipt holders by either redelivering the grain, on a pro rata basis, to each warehouse receipt holder of record or liquidating the grain inventory, depositing the proceeds in an interest-bearing trust account, and distributing the proceeds, on a pro rata basis, to each warehouse receipt holder of record. The proceeds must remain in the trust account until the bond disbursement date, if applicable. Valid claims by warehouse receipt holders in excess of the amount in the trust account will be applied against the storage bond. The warehouse operator, the operator's surety, and each warehouse receipt holder of record must be notified of the shortage and the proposed action to be taken by the commissioner to protect warehouse receipt holders. Notice must be mailed to each warehouse receipt holder's last known address as evidenced by the records of the warehouse operator.

If any interested party files a written objection to the department's proposed action within ten days of receipt of the commissioner's notice, the commissioner shall apply to the district court for the appointment of a trustee or receiver to manage and supervise the operations of the grain warehouse operator in default.

An audit or other investigation of the affairs of the warehouse operator must be made by the commissioner for the purpose determining the amount of the shortage and computing the loss sustained by each depositor.

1562.2100 MOVEMENT OF ENCUMBERED GRAIN.

Grain encumbered by a warehouse receipt may be moved to another public grain warehouse with the depositor's request, pursuant to Minnesota Statutes, section 232.23, subdivision 13. The original warehouse receipt must be canceled and the receiving public grain warehouse operator must issue a currently-dated warehouse receipt for the grain being moved and stored. All storage charges must be paid through the date of cancellation of the original warehouse receipt.

1562.2200 TERMINATION OF LICENSE; CHANGE OF OWNERSHIP.

When a license is terminated by reason of sale, discontinuance of business, failure to renew a license, or for any other reason, the grain buyer or warehouse operator must discontinue buying grain from producers or storing grain, and redeliver or purchase all grain belonging to others in the warehouse. If a licensee sells or leases a grain warehouse to another person, proper indemnity must be provided to all depositors. Agreement in writing by the warehouse operator's successor to assume liability for all warehouse receipts outstanding at the time of take-over and reissuance of warehouse receipts by the successor constitutes sufficient indemnity. The commissioner must be notified of a change in ownership so that a new license and bond may be issued.

REPEALER. Minnesota Rules, parts 1560.5400; 1560.5500; 1560.5600; 1560.5700; 1560.5800; 1560.5900; 1560.6000; 1560.6100; 1560.6200; 1560.6300; 1560.6400; 1560.6500; 1560.6600; 1560.6700; 1560.6800; 1560.6900; 1560.7000; 1560.7100; 1560.7200; 1560.7300; 1560.7400; 1560.7500; and 1560.7600 are repealed.

Department of Human Services

Proposed Permanent Rules Relating to Licensing of Day Care Facilities

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public

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

hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1, and section 252.28, subdivision 2.

All persons have 30 days or until 4:30 p.m. on March 2, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule 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.

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

Jane Nelson, Rules & Bulletins Division
Department of Human Services
Second floor, 444 Lafayette
St. Paul, Minn. 55155-3816

The proposed 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 rule as noticed.

A copy of the proposed rule amendment is attached. Additional copies are available at no cost upon request from Jane Nelson. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

The purpose of the proposed amendment is to correct a procedural error that is inconsistent with statute. As adopted, the variance provision allows for contested case proceedings when the commissioner denies a variance request. However, Minnesota Statutes, section 245A.08, subdivision 1, provides for an appeal and hearing under Minnesota Statutes, Chapter 14, only in the case of denial of application (245A.05), correction order and fines (245A.06), and immediate suspension, suspension, revocation, and probation (245A.07).

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jane Nelson upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General 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 the written request to Jane Nelson.

Dated: 10 January 1988

Sandra S. Gardebring
Commissioner

Rules as Proposed

9502.0335 LICENSING PROCESS.

Subpart 1. to 8a. [Unchanged.]

Subp. 8b. **Agency variance role.** The agency may request that the commissioner delegate to the agency the authority to grant variances to the standards governing licensed capacity, child/adult ratios and age distribution restrictions in parts 9502.0365 and 9502.0367 if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance for any part of the day shall constitute a variance for the entire day.

A. and B. [Unchanged.]

C. If the agency has not been delegated the authority to rule on requests for variances, or if the request seeks variance of a rule part provision the agency does not have the authority to vary, the agency shall, within 15 days after the request is received, mail to the department a copy of the request and the agency's recommendation to approve, further investigate, or deny the request. The

agency shall also mail a copy of its recommendation to the applicant or provider. The commissioner shall grant or deny a request for a variance within 30 days after the department receives the request from the agency. ~~If the commissioner denies the applicant's or provider's request for a variance, the applicant or provider may appeal the decision according to Minnesota Statutes, sections 14.57 to 14.70. The applicant or provider shall be informed of the right to appeal at the time of denial.~~

Subp. 9. to 16. [Unchanged.]

Department of Revenue

Proposed Permanent Rules Relating to the Definition of Resident and Domicile

Notice of Intent to Amend Rule Without a Public Hearing

Notice is hereby given that the Minnesota Department of Revenue intends to amend the rule described above without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, Section 290.52.

The rule proposed for amendment relates specifically to the definition of resident and domicile for purposes of individual income taxes.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed amendments or any part or subpart of the amendments. Comment is encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the amendments 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 unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, Sections 14.131 to 14.20.

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

Amy Eisenstadt
Mail Station 7110
St. Paul, Minnesota 55146-7110
(612) 296-5339

The proposed amendments 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 amended rule as noticed.

A statement of Need and Reasonableness that describes the need for and reaasonableness of each amendment to the rule and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request by contacting Ms. Eisenstadt at the above address.

If no hearing is required, upon adoption of the amendments, the amended rule and the required supporting documents will be submitted to the Attorney General 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 amended rule as adopted, must submit a request in writing to Ms. Eisenstadt at the above address.

Rules as Proposed

8001.0300 RESIDENT AND DOMICILE DEFINED; CONSIDERATIONS.

Subpart 1. **Resident.** The term "resident" means:

A. any individual person ~~maintaining a home in Minnesota during any part of a tax year~~ who is~~, during that part of such year,~~ domiciled in Minnesota, subject to the exception set forth in subpart 9; and

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

data or views in writing or orally. Written statements should be addressed to: Mary Jo Verschay, Mental Health Division, Department of Human Services, 4th Floor Centennial Office Building, 658 Cedar, St. Paul, Minn. 55155. Oral statements will be received during regular business hours over the telephone at (612) 297-2831 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services 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.

Department of Human Services

Health Care Programs Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing Eligibility to Receive Payments as a Provider in the Medical Assistance Program, under *Minnesota Rules*, Parts 9505.0170 to 9505.0475

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption and amendment of rules governing the eligibility of providers to receive medical assistance payments under *Minnesota Rules*, parts 9505.0170 to 9505.0475, for case management for brain-injured persons (*Minnesota Rules*, part 9505.0242), case management for mentally ill persons (part 9505.0243), community mental health services (part 9505.0260), day treatment services (part 9505.0265), hospice care (part 9505.0297), psychological services (part 9505.0370), psychotherapy services (part 9505.0375), rehabilitation agency services (part 9505.0385), rehabilitative and therapeutic services (part 9505.0390), rehabilitative engineering and assistive communication devices (part 9505.0392), and long-term care facilities—rehabilitation and therapeutic services to residents (part 9505.0410), and amendments to rules setting criteria and payment rates for transportation by air ambulance and rules setting eligibility for payment of home health services such as homebound, home and respite care, private duty nursing, and extended hour nursing. The adoptions of the rules and amendments are authorized by *Minnesota Statutes*, section 256B.02, subdivision 8, in conjunction with Public Law Number 99-272, section 9505, which permits the agency to make medical assistance payments for hospice care services, and *Minnesota Statutes*, section 256B.02, subdivision 8, and section 256B.04, subdivision 2.

The State Department of Human Services requests information and opinions concerning the subject matter of the rules. 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:

Larry Woods
Health Care Programs Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-2846 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services 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.

Department of Human Services

Licensing Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Licensure of Child Foster Homes and Family Day Care and Group Family Day Care Homes

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the

agency in preparing to propose amendments governing the licensure of the operators of Family Foster Homes for Children (parts 9545.0010 to 9545.0260) and Family and Group Family Day Care Homes (parts 9502.0300 to 9502.0445).

The adoption of rules governing the licensure of family foster homes and family and group family day care homes is authorized by *Minnesota Statutes*, sections 245A.02, subdivisions 3, 10 and 11, section 245.03, subdivision 1, section 245A.09, subdivision 1 and section 252.28, subdivision 1.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule amendments which intend to prohibit dual licensure of adult foster care homes, family day care homes and child foster care homes and would modify the family day care rule variance procedure to eliminate the appeal of variance denials to the Office of Administrative Hearings. 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: Beverly Moran, Licensing Division, Department of Human Services, 4th Floor 444 Lafayette, St. Paul, Minn. 55155. Oral statements will be received during regular business hours over the telephone at (612) 296-3768 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services 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.

State Board of Investment

Investment Advisory Council

Notice of Joint Meeting

The State Board of Investment and the Investment Advisory Council will hold a joint meeting on Thursday, October 1, 1987 from 8:30 A.M. - 2:00 P.M. at the Spring Hill Conference Center.

Department of Jobs and Training

Notice of Solicitation of Outside Information or Opinion Regarding Proposed Rule Governing Youth Employment Opportunities

Notice is hereby given that the State Department of Jobs and Training is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing Youth Employment Opportunities. The adoption of the rule is authorized by *Minnesota Statutes*, section 268.33, which permits the agency to make rules in order to implement *Minnesota Statutes*, sections 268.31 to 268.36.

The State Department of Jobs and Training requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written documents should be addressed to:

Kay Tracy
Department of Jobs and Training
Youth Program Coordinator
State Job Training Office
690 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 296-6064 and in person at the above address.

All statements of information and opinions shall be accepted until October 21, 1987. Any written material received by the State Department of Jobs and Training 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. A copy of the current rule follows this notice.

Dated: 14 September 1987

3300.0100 DEFINITION OF TERMS.

Subpart 1. **Scope.** The following terms used in parts 3300.0100 to 3300.0700 shall have the meanings given them.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Licensure of Family and Group Family Day Care Homes, part 9502.0335, subpart 8b, item C

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on February 1, 1988 at 12 S. R. 1607 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on January 27, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt 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. No requests for public hearing were received by the agency. Therefore the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

No submissions or comments on the rule amendment were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on evidence in the record before the agency, I find the following:

1. 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.

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

3. The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Licensure of Family and Group Family Day Care Homes, part 9502.0335, subpart 8b, item C is adopted this 9th day of March, 1988, pursuant to authority vested in me by Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1, and section 252.28, subdivision 2.

SANDRA S. GARDEBRING
Commissioner

In the Matter of the Adoption
of the Rule of the State Department
of Human Services Governing the Licensure
of Family and Group Family Day Care Homes,
part 9502.0335, subpart 8b, item C

DECLARATION OF
COUNSEL

I, Mary Stanislav, 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 client code is 0884.

Mary J. Stanislav
Special Assistant
Attorney General

Dated:

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING THE LICENSURE OF FAMILY AND GROUP FAMILY DAY CARE HOMES

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 27th day of January, 1988.

Nancy Bishop

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Licensure of Family and Group Family Day Care Homes, part 9502.0335, subpart 8b, item C

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 245A.02, subdivisions 3, 10 and 11; section 245A.03, subdivision 1; section 245A.09, subdivision 1, and section 252.28, subdivision 2.

All persons have 30 days or until 4:30 p.m. on March 2, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule 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.

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

Jane Nelson, Rules and Bulletins Division
Department of Human Services
Second floor, 444 Lafayette
St. Paul, MN 55155-3816

The proposed 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 rule as noticed.

A copy of the proposed rule amendment is attached. Additional copies are available at no cost upon request from Jane Nelson. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

The purpose of the proposed amendment is to correct a procedural error that is inconsistent with statute. As adopted, the variance provision allows for contested case proceedings when the commissioner denies a variance request. However, Minnesota Statutes, section 245A.08, subdivision 1, provides for an appeal and hearing under Minnesota Statutes, Chapter 14, only in the case of denial of application (245A.05), correction order and fines (245A.06), and immediate suspension, suspension, revocation, and probation (245A.07).

A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule amendment and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jane Nelson upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General 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 the written request to Jane Nelson.

Date: 12/30/87

Sandra Gardebring

SANDRA S. GARDEBRING
Commissioner

Rec'd
3/14/88

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3816

TO: Rita Desmond
515 Transportation Building
St. Paul, MN 55155

FROM: Jane Nelson, DHS Rules Division
Second Floor
444 Lafayette Road
St. Paul 55155-3816

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Licensure of Family and Group Family Day Care Homes, part 9502.0035, subpart 8b, item C

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.

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt a rule without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

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.

6. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

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. The declaration of the attorney in the attorney general's office who represents the agency.

No comments were received on the proposed amendment in response to the Notice of Solicitation or the Notice to Adopt without a Hearing. No requests for notice of submission of the rule to the attorney general were received by the agency.

If you have any questions on this submitted material, please call me at 297-1217.